Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street N.E. Room 2100
Washington D.C. 20002
Tel:(202) 442-4470 Fax:(202) 442-4862

B

Building Permit

THIS PERMIT IS VALID ONLY FOR THE PREMISES OF THE PROJECT ADDRESS

PERMIT NO. 91274 **DATE:** 3/28/2006

ADDRESS OF PROJECT: 00 ROCK CREEK PKWY NW	S S L: SQ: 00 SX: LOT: 00 WARD: 4 ZONE SP-2		
DESCRIPTION OF WORK: ROADWAY BRIDGE , FOOT AND BIKE TRAIL REHAB.			
PERMIT TYPE: ALTERATION AND REPAIR	**PLANS (Y/N):** Y	**EXISTING USE:** ASSEMBLY USES, OTHERS	**PROPOSED USE:** Assembly Uses, Other
PERMISSION IS HEREBY GRANTED TO OWNER: US GOVERNMENT / FHWA		**PERMIT FEE:** $33.00	
AGENT NAME: US GOVERNMENT / FHMA 703-404-6283			
CONDITIONS / RESTRICTIONS:			

TO REPORT WASTE, FRAUD OR ABUSE BY ANY D.C. GOVERNMENT OFFICIAL, CALL THE D.C. INSPECTOR GENERAL AT 1-800-521-1639:

DIRECTOR: Dr. Patrick Canavan, Psy. D.	**PERMIT CLERK:**	**EXPIRATION DATE:** 3/28/2007

CONDITIONS: As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all the work authorized by this permit and to require any change in construction which may be necessary to insure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under the Permit must start within one (1) year of the date appearing on this permit or this permit is automatically void. If work is not started, any application for partial refund must be made within six months of the date appearing on this permit.

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT ADDRESS OF WORK UNTIL WORK IS COMPLETED.

NOTIFY THE BUILDING INSPECTOR THE DAY THE WORK STARTS. PHONE: (202)442-4641 941 NORTH CAPITOL ST NE WASHINGTON DC 20002.

A seperate permit is required for all Plumbing, Refrigeration, Gas Fitting, and Electrical Work.

National Park Service
U.S. Department of the Interior

Rock Creek Park
Washington, DC

Rock Creek and Potomac Parkway, Rock Creek Park

Rehabilitation of Rock Creek and Potomac Parkway From Virginia Avenue to P Street Bridge and the Thompson Boat Center

Environmental Assessment

May 2005

ENVIRONMENTAL ASSESSMENT

REHABILITATION OF ROCK CREEK AND POTOMAC PARKWAY FROM VIRGINIA AVENUE TO P STREET BRIDGE & THE THOMPSON BOAT CENTER

May 2005

ROCK CREEK AND POTOMAC PARKWAY, ROCK CREEK PARK
Washington, DC

United States Department of the Interior • National Park Service

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U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
in cooperation with
FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION

ENVIRONMENTAL ASSESSMENT FOR THE REHABILITATION OF ROCK CREEK AND POTOMAC PARKWAY FROM VIRGINIA AVENUE TO P STREET BRIDGE & THE THOMPSON BOAT CENTER

ROCK CREEK AND POTOMAC PARKWAY, ROCK CREEK PARK
WASHINGTON, DC

Summary

The National Park Service, in cooperation with the Federal Highway Administration – Eastern Federal Lands Highway Division, proposes to rehabilitate Rock Creek and Potomac Parkway from Virginia Avenue to P Street, NW and to rehabilitate the access road, bridge, and parking area of the Thompson Boat Center in Washington, DC. Major project components entail milling and overlaying the parkway from Virginia Avenue to P Street and the Thompson Boat Center parking area; realigning the foot and bike trail in this section of the parkway; minor bridge repairs to the L Street bridge; ramps to and from K Street and Pennsylvania Avenue would be milled and overlaid; and reconstructing the P Street ramp to and from the southbound Parkway.

This Environmental Assessment analyzes the potential impacts of three alternatives (a No-Action Alternative and two action alternatives) on the human environment in accordance with the National Environmental Policy Act of 1969. Under the No-Action Alternative (Alternative A), the National Park Service would continue with minor spot repairs to the parkway and the Thompson Boat Center parking areas and bridge. No comprehensive milling and resurfacing program would be conducted. Under Alternatives B and C, the National Park Service would mill and overlay the parkway from Virginia Avenue to P Street, the Thompson Boat Center access road, bridge, and parking area, and ramps to and from K Street and Pennsylvania Avenue; conduct minor repairs to the L Street bridge; replace in kind the existing street lights; replace in kind the existing median at Virginia Avenue, and conduct drainage improvements to collect and improve drainage of a seep area. The difference in the action alternatives is Alternative B (Preferred Alternative) would realign a segment of the foot and bike trail away from the parkway; whereas, Alternative C would realign a portion of the parkway away from the foot and bike trail.

The No-Action Alternative and the action alternatives would either have no or negligible impacts on water resources; air quality; soundscape management; lightscape management; cultural resources; topography, geology, and soils; agricultural lands; prime and unique farmlands; wildlife; rare, threatened, endangered, candidate species, and species of special concern; socio-economic environment; land use; environmental justice; park operations, concessions operations; community facilities and services; and infrastructure.

Under the No-Action Alternative, there would be moderate, long-term, adverse impacts on health and safety and transportation/traffic. The No-Action Alternative would have minor, long-term, adverse impacts on cultural landscapes, and visitor experience and use. No impacts would occur to vegetation.

Under Alternative B (Preferred Alternative), there would be moderate, long-term beneficial impacts on health and safety, transportation/traffic, and visitor experience and use; and a negligible, long-term, adverse impact on vegetation. Minor, short-term, adverse impacts would occur to health and safety and moderate, short-term, adverse impacts would occur for transportation/traffic and visitor experience and use. Minor, long-term, adverse impacts to the cultural landscape would occur. No impacts to archeological resources would occur. The realignment of the trail would be a more sustainable, long-term solution than Alternative C.

Under Alternative C, there would be moderate, long-term, beneficial impacts on health and safety, and transportation/traffic. Minor, long-term, beneficial impacts to visitor experience and use would occur. A minor, long-term, adverse impact would occur to cultural landscapes and vegetation. Minor, short-term, adverse impacts would occur to health and safety. Moderate, short-term, adverse impacts would occur for transportation/traffic and visitor experience and use. No impacts to archeological resources would occur.

Note to Reviewers and Respondents

If you wish to comment on the Environmental Assessment, you may mail comments to the name and address below by June 13, 2005. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials or organizations or businesses available for public inspection in their entirety.

Please address all comments to:
Adrienne Coleman, Superintendent
Rock Creek Park and Rock Creek and Potomac Parkway
3545 Williamsburg Lane, NW
Washington, DC 20008-1207

Or by email to:
rocr_virginiaaveproject@nps.gov

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PURPOSE OF AND NEED FOR ACTION

The National Park Service, in cooperation with the Federal Highway Administration – Eastern Federal Lands Highway Division, proposes to rehabilitate the Rock Creek and Potomac Parkway from Virginia Avenue to P Street, NW and the Thompson Boat Center parking area in Rock Creek Park, Washington, DC (see Figure 1). This Environmental Assessment analyzes the potential environmental impacts that would result from the implementation of the proposed Rehabilitation of Rock Creek and Potomac Parkway from Virginia Avenue to P Street, NW and the Thompson Boat Center parking area in Rock Creek Park. This Environmental Assessment has been prepared in accordance with the National Environmental Policy Act of 1969, the regulations of the Council on Environmental Quality for implementing the Act (40 Code of Federal Regulations 1500-1508), and the National Park Service Director's Order # 12 (*Conservation Planning, Environmental Impact Analysis, and Decision-making*) (NPS, 2001). In accordance with Section 800.8 of the Advisory Council on Historic Preservation's regulations (36 CFR 800), the process and documentation required for preparation of this Environmental Assessment would also be used to comply with Section 106 of the National Historic Preservation Act.

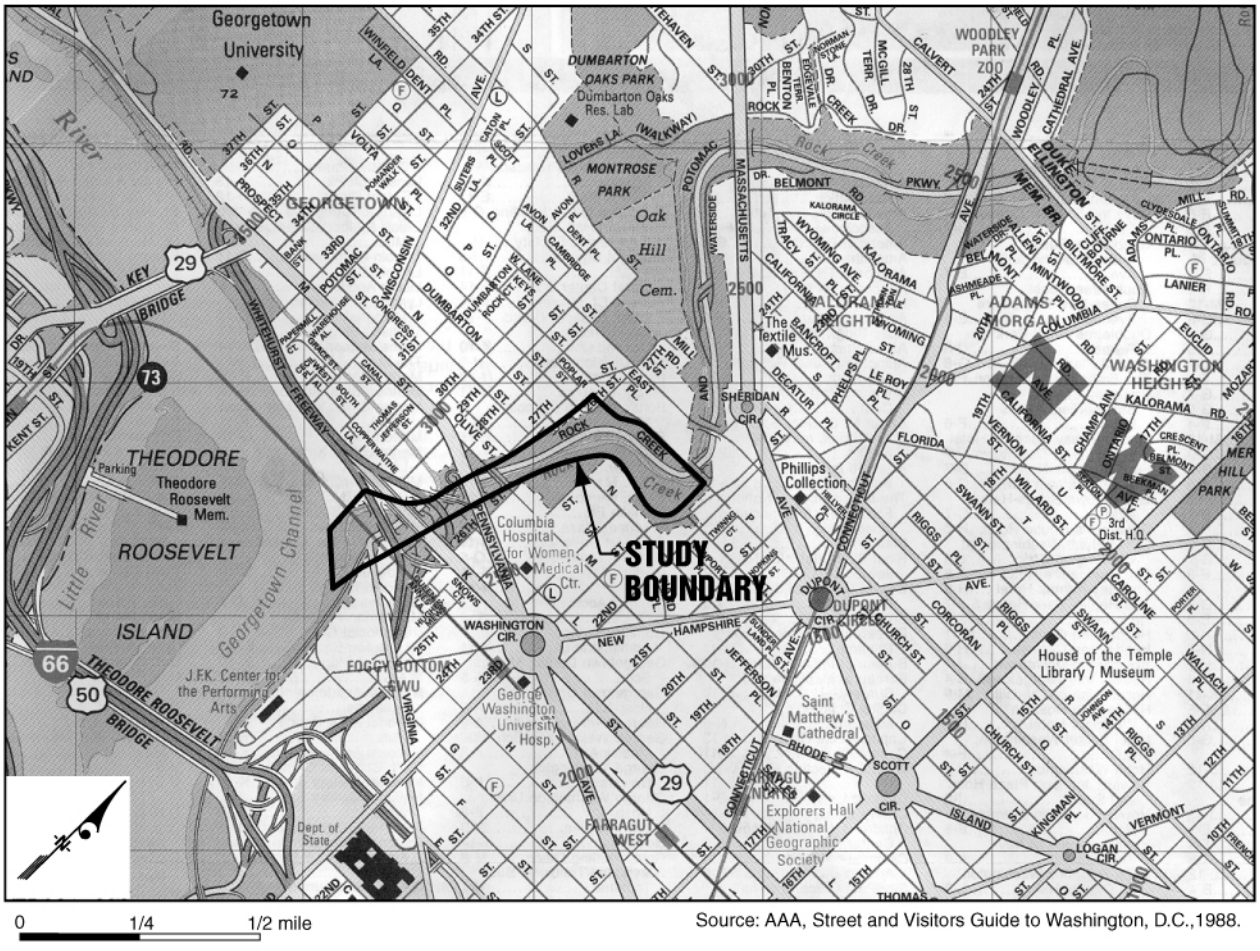

Figure 1: Area Location Map.

PURPOSE OF THE ACTION

The purpose of the project is to increase safety for both bicyclists and motorists, improve the transportation infrastructure for this section of the parkway, provide better drainage, and increase accessibility to the Thompson Boat Center parking area in accordance with the Americans with Disabilities Act. This project would improve visitor experience and use of the park.

NEED FOR THE ACTION

This project is needed because the asphalt pavement in this section of the parkway is in poor physical condition and many of the parkway features do not meet the National Road Standards or the American Association of State Highway Transportation Officials (AASHTO) standards. One area of the parkway near the P Street Bridge is experiencing poor drainage. These conditions require the National Park Service to take corrective action to extend the useful life of the parkway. In addition, the foot and bike trail is located adjacent to the parkway, and there is no protective barrier between the trail and vehicular traffic on the parkway. This creates a safety issue for commuters, recreational bikers, and pedestrians.

Repairs to the Thompson Boat Center parking area are needed due to the deteriorated condition of the asphalt in the parking area. In addition, the bridge approach has settled, and adjacent walks are uneven creating a safety concern. Continued deterioration of the parking lot and bridge surface would lead to higher rehabilitation costs in the future and could lead to major construction costs to rehabilitate the bridge surface if preventative measures are not taken.

HISTORY AND SIGNIFICANCE OF THE PARK

Rock Creek Park is an administrative unit of the National Park Service that includes Rock Creek Park proper (Reservation 339), and Rock Creek and Potomac Parkway (Reservation 360). It is located in the northern portion of Washington, DC. It is made up primarily of an undeveloped, wooded valley from the Maryland state line south to the National Zoological Park, with some associated tributaries and uplands; and the 2-mile long Rock Creek and Potomac Parkway from the National Zoological Park to West Potomac Park, where it ends at the Lincoln Memorial Circle (the Park's administration of the parkway ends at Virginia Avenue). Its most notable feature is Rock Creek, which bisects the length of Rock Creek Park and Rock Creek and Potomac Parkway.

The Rock Creek and Potomac Parkway was established in 1913 by the Public Buildings Act. The parkway was created to prevent pollution and obstruction of Rock Creek and to provide a connector between Potomac Park and the Smithsonian National Zoological Park and Rock Creek Park.

The parkway was completed in 1936 and has served as a scenic roadway in and out of Washington, DC. Almost since its opening, the parkway has become a preferred commuter route for many residents of northwest Washington, DC and Montgomery County, Maryland.

The project area is approximately ¾-mile along the parkway from Virginia Avenue to the P Street bridge. It also includes the Thompson Boat Center parking area. Additional information on the project area can be found in the Affected Environment Section.

Figure 2 shows the project area and the study area as they relate to the Rock Creek and Potomac Parkway, the Thompson Boat Center, and the foot and bike trail that follows the parkway. The project area is the limits of construction or the area that is directly impacted if either action alternative were implemented. The study area includes the project area and any area indirectly impacted if either action alternative were implemented. The surrounding neighborhoods may be included in the study area but would be specified in the narrative when that occurs. The National Park Service does not distinguish between direct and indirect impacts when discussing impact analysis, therefore in this document the impact analysis and effected environment discussion apply to the study areas unless otherwise stated.

Figure 2: Site Location Map

PROJECT BACKGROUND & PLANNING

The Denver Service Center, National Park Service commissioned a consultant to complete a comprehensive traffic safety study for Rock Creek Park in March 1997 (Peccia, 1997). Some of the key points of this study as they relate to the rehabilitation project are:

- A total of 657 accidents have been reported along the Rock Creek and Potomac Parkway between 1993 and 1995. Of those, 287 occurred within the project area. This includes the only two fatalities, which were collisions with pedestrians. Current statistics show that from 1996 through 2004 a total of 1,408 accidents have been reported along Rock Creek and Potomac Parkway and of these, 423 were within the project area (personal communication USPP, 2005)

- Traffic volumes show little seasonal variation, and the highest traffic levels correspond to the morning and evening peak commuter periods.

- The Rock Creek and Potomac Parkway from Virginia Avenue to the Whitehurst Freeway has a carrying capacity of more than 65,000 vehicles per day.

The Federal Highway Administration completed an *Engineering Study for Roads and Bridges* (FHWA, 1999) that evaluated the need for and priorities for rehabilitation and reconstruction of the road and bridges within Rock Creek Park. Some of the key recommendations of this study include resurfacing Rock Creek and Potomac Parkway through milling and overlaying; minor drainage improvements and inlet repairs/replacements; and creating an adequate buffer zone between the roadway and the bicycle trail between the M Street and P Street bridges. All of these recommendations have been taken into consideration and addressed within this project.

The Federal Highway Administration also provides highway and bridge design, construction, and inspection services for the National Park Service nationwide. As part of this program, the Federal Lands Highway Division performs bridge inspections on a biennial basis. Bridge inspections for this section of Rock Creek and Potomac Parkway were conducted on June 26, 2001 and June 24, 2003. The Design Scoping Reports completed for this project used the bridge inspections as the basis for their findings. These reports identified severe deterioration of pavement at both approaches and of the asphalt over the piers of the Thompson Boat Center Bridge (US DOT, 2001a, 2003a) and corrective action to the L Street Pedestrian Bridge and the P Street Bridge to prevent additional deterioration (US DOT, 2001d, 2003b,c). All bridges would require regular maintenance to extend their useful life.

A draft *General Management Plan and Environmental Impact Statement for the Rock Creek Park and the Rock Creek and Potomac Parkway* is currently being developed by the National Park Service. The Rehabilitation for Rock Creek and Potomac Parkway project as it is described in this document is referenced in the draft General Management Plan.

In 2003, the Federal Highway Administration in cooperation with the National Park Service hired an engineering firm, Phoenix Engineering, Inc. to complete design and construction plans. These plans address the purpose and need to rehabilitate the Rock Creek and Potomac Parkway and the Thompson's Boat Center parking area. The plans were presented to the NPS, the NPS

environmental consultant firm (HNTB/G&O) and Eastern Federal Lands Highway Division (EFLHD). The design plans along with internal and external scoping were used to conduct resource impact analysis, develop design alternatives, and are the basis for writing this environmental document for the NPS.

SCOPING

Scoping is the effort to involve agencies, and organizations, and the public in determining the issues to be addressed in the environmental document. Among other tasks, scoping determines important issues and eliminates issues determined not to be important; allocates assignments among the interdisciplinary team members and/or other participating agencies; identifies related projects and associated documents; identifies other permits, surveys, and consultations required with other agencies; and creates a schedule that allows adequate time to prepare and distribute the environmental document for public review and comment before a final decision is made. Scoping is a process that seeks opinions and consultation from any interested agency or agency with legal jurisdiction.

Internal Scoping. Internal scoping is an integral part of National Park Service projects. The project team met with the Federal Highway Administration to refine the scope of the project. The project team took into consideration the Design Scoping Reports completed by the Federal Highway Administration in the development of the alternatives presented in this document. In addition, a multidiscipline team meeting was conducted on January 15, 2004 to initiate the Environmental Assessment analysis. At this meeting, the team discussed the project background, existing site conditions, and identified potential issues, feasible alternatives, and potential impacts.

External Scoping. The National Park Service consulted with the U.S. Fish and Wildlife Service about any known Federal or State threatened or endangered species or species of concern within the study area and would continue Section 106 consultation with the DC Historic Preservation Office as part of the Environmental Assessment review.

ISSUES AND IMPACT TOPICS

The National Park Service staff completed an Environmental Screening Form that identifies potential issues and impact topics that require additional investigation to address the requirements of the National Environmental Policy Act of 1969 and Director's Order # 12 (NPS, 2001). These issues were identified from previous park planning efforts, input from various interested public groups and individuals, and input from local, state, and federal agencies.

Resources were considered in accordance with National Park Service 2001 Management Policies (NPS, 2002). The National Park Service manages parks resources to maintain them in an unimpaired condition for future generations in accordance with National Park Service specific statutes, including the Organic Act of 1916 and the National Parks Omnibus Management Act of 1998; general environmental laws such as the Clean Air Act, the Clean Water Act, the Endangered Species Act of 1973, the National Environmental Policy Act, National Historical Preservation Act of 1966, and the Wilderness Act; and applicable regulations.

The National Environmental Policy Act is the basic national charter for protection of the environment. The Act requires federal agencies to use all practicable means to restore and enhance the quality of the human environment and to avoid or minimize any possible adverse effects of their actions upon the environment. Resources include soils, wildlife, habitats, vegetation; cultural, historic, and prehistoric resources, and socioeconomic resources, among others. Additionally, it is the National Park Service's policy to protect the natural abundance and diversity of all naturally occurring communities at the park.

ISSUES

Maintaining the Historic Integrity of the Cultural Landscape. The Rock Creek and Potomac Parkway Historic District (a.k.a. Lower Rock Creek Valley Historic District) is in the process of being listed on the National Register of Historic Places as an area of statewide significance as a historic designed landscape (NPS, 2003). The Rock Creek and Potomac Parkway became a principal component of the comprehensive park system for Washington, DC, which was conceived by the Senate Park Commission. Design and construction of the proposed project must consider potential impacts to the cultural landscape. These resources include bridges and foot and bike trails, as well as other nearby resources contributing to the cultural landscape of the Rock Creek and Potomac Parkway. The rehabilitation of the parkway needs to be conducted in a manner that is consistent with the Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Restoring, and Reconstructing Historic Buildings* and the Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes.*

Pedestrians and Bicyclists Safety Along Trail. A large number of pedestrians, joggers, and bicyclists use the foot and bike trail that parallels the parkway. In several locations, the trail, which follows the existing shoulder of the parkway, is located behind the curb of the southbound roadway, and has no guardrail or barrier between the trail and the road. Relocation and protection of the trail are necessary to improve safety. The issues are improving safety, maintaining the trail access, and protecting trail users during construction.

Traffic and Access to the Parkway. The Rock Creek and Potomac Parkway is an integral part of the commuter transportation system leading from Montgomery County, Maryland into Washington, DC. In addition, the parkway is used by residents and tourists to access downtown Washington, DC, the Rock Creek Park and the National Zoological Park.

IMPACT TOPICS INCLUDED IN THIS DOCUMENT

Impact topics are resources of concern that could be affected, either beneficially or adversely, by the range of alternatives. Impact topics were identified based on federal laws, regulations, Executive Orders, National Park Service Management Policies (NPS, 2002a), the Environmental Screening Form from Director's Order #12 (NPS, 2001), and from the National Park Service knowledge of limited or easily impacted resources. The Environmental Screening Form was completed by the National Park Service staff and identified potential issues and impact topics that required additional investigation to address the requirements of the National Environmental Policy Act of 1969 and Director's Order #12 (NPS, 2001). Specific impact topics were developed to ensure the alternatives were compared based on the most relevant topics. As a means of

evaluation, impact topics included in this document were analyzed in more detail to compare the environmental consequences of the No-Action Alternative and two action alternatives. The impact topics identified on the Environmental Screening Form are explained below.

- **Cultural Landscapes.** The Rock Creek and Potomac Parkway contains natural features and historic resources that contribute to its cultural landscape. Any construction along the parkway must fully consider the potential impacts to the cultural landscape and be preformed in a manner consistent with *Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for the Treatment of Cultural Landscapes.* As a result, Cultural Landscapes was retained for further investigation in this Environmental Assessment.

- **Archeological Resources.** Previous archeological studies conducted near the project area have identified trace archeological materials approximately five feet below grade. The design of the drop inlets have the potential to impact these resources and archeological monitoring would be recommended during construction. Because of the potential for impacts to archeological resources, this topic was carried forward for analysis.

- **Health and Safety.** The National Park Service retained Health and Safety as an impact topic because of the foot and bike trail's close proximity to the parkway and heavy use by pedestrians, joggers, and bicyclists. The National Park Service plans to keep as much of the trail open during construction as possible and as a result, protective measures need to be studied and implemented to ensure the safety of trail users during construction.

- **Vegetation.** The project alternatives have the potential to cause adverse impacts to vegetation along the Rock Creek and Potomac Parkway due to the removal of grassed areas along the shoulder of the parkway. Therefore, this topic was retained for further analysis.

- **Transportation/Traffic.** The Rock Creek and Potomac Parkway is a major commuter transportation route. Construction projects on the Rock Creek Parkway have the potential to cause excessive delays and congestion. As a result, the National Park Service must analyze potential impacts on area traffic and seek ways to minimize the short-term impacts caused by construction. Therefore, this topic was retained for further analysis.

- **Visitor Experience & Use.** The project alternatives have the potential to cause short-term impacts on the visitor experience and use because of trail detours and traffic lane closures necessary for construction. As a result, Visitor Experience and Use was retained for detailed investigation in this document.

IMPACT TOPICS DISMISSED FROM FURTHER ANALYSIS

The non-controversial topics listed below would either not be affected or would be affected negligibly by the alternatives evaluated in this document. Therefore, these topics have been briefly discussed in this section of the Environmental Assessment and then dismissed from further consideration or evaluation. Negligible effects are effects that are localized and at the lowest level of detection.

WATER RESOURCES

Rock Creek is a meandering stream approximately 33 miles long that flows south from its source near Laytonsville, MD, to the Potomac River in Washington, DC and is predominantly surrounded by urban and suburban areas in the lower basin of Rock Creek. The greatest regional effects on water quality in Rock Creek are attributed to the increases in urban development with the associated increases in stormwater runoff over impervious surfaces. In the lower segment of the Rock Creek in the District of Columbia where it is under National Park Service administration, major sources of pollutants are discharges from storm sewer and combined sewer outfalls (USGS, 2002; USEPA, 2003; DCDH, 2004). There are three storm sewer outfalls and six combined sewer outfalls in the project area. In addition, there are four combined sewer outfalls immediately upstream of the project area and one below the project area. None of the alternatives would result in changes in the quality or quantity of runoff to Rock Creek. None of the alternatives would result in a net change in the impervious surface associated with the roadway, trail, or parking area.

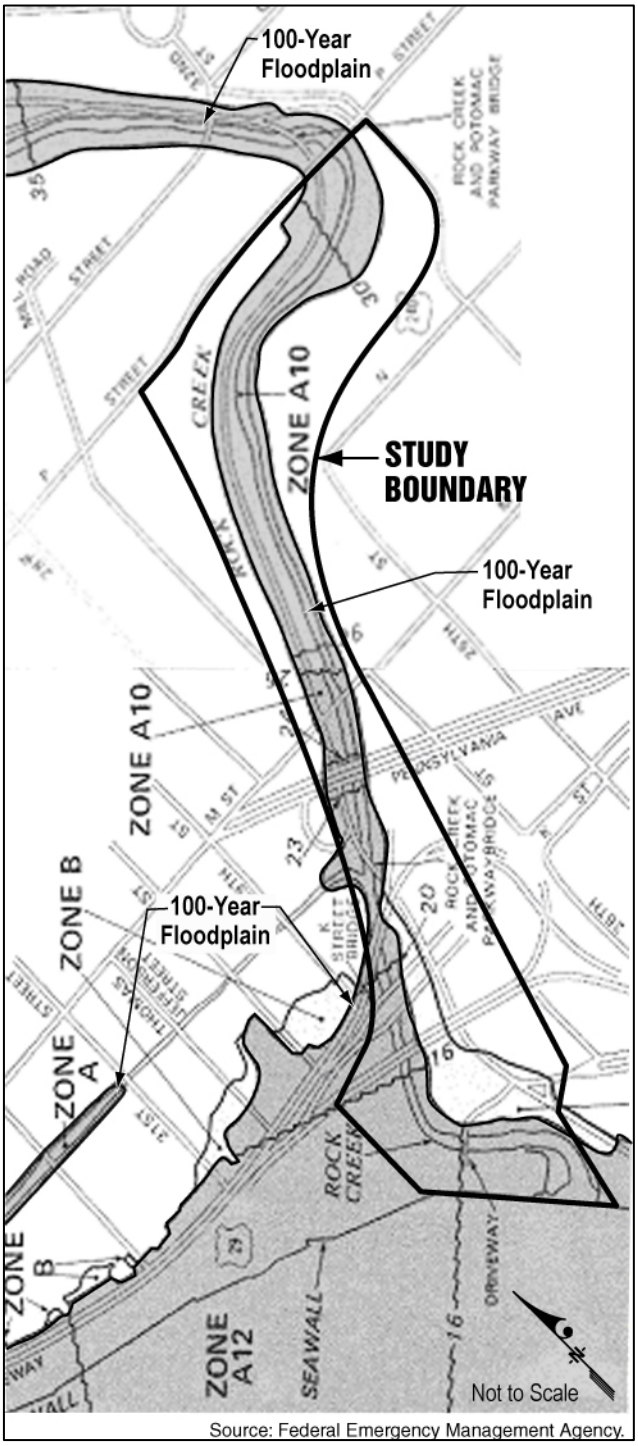

Figure 3: 100-Year Floodplain.

Based on a review of the available National Wetland Inventory maps and site visits, no wetlands other than Rock Creek were identified in the project area (USFWS, 2004; DC Guide, 2004). Rock Creek is identified as an open water, tidally influenced riverine wetland system. None of the alternative actions would occur within the Creek and no wetlands would be affected.

The 100-year floodplain of Rock Creek extends along the Creek from the Potomac River upstream beyond the northern limits of the project area (FEMA, 1985). The 100-year floodplain encompasses the Rock Creek and Potomac Parkway project area and the Thompson Boat Center parking area (Figure 3). None of the alternatives result in any barriers constructed in the floodplain, and no change in the area of

impervious ground surface would occur with any of the alternatives. No changes in flood conditions or impacts of flooding would occur as a result of the proposed alternatives.

None of the alternatives presented in this document would affect greater than negligible the water resources in the study area. Therefore, Water Resources was dismissed as an impact topic.

AIR QUALITY

Air quality became a national concern in the mid-1960s, leading to the passage of the Air Quality Act in 1967. The Act (now referred to as the Clean Air Act) and subsequent amendments have established procedures for improving conditions, including a set of National Ambient Air Quality Standards.

The U.S. Environmental Protection Agency is directed to set levels for pollutants in order to protect the public health. The National Ambient Air Quality Standards have been adopted for six pollutants: carbon monoxide, nitrogen dioxide, ozone, particulate matter, sulfur dioxide, and lead. A system of monitoring stations has been established across the country to measure progress in meeting these goals. If an area is found to exceed the allowable concentrations, local officials are required to develop a plan for achieving air quality that meets the standards.

The Washington, DC metropolitan area, including the District of Columbia, is not in compliance with the National Ambient Air Quality Standards. Therefore, it is subject to the conformity requirements of the Clean Air Act. The Washington metropolitan area is in non-attainment for ozone, and the region is required to develop a plan to move toward attainment. Similarly, the region had been in non-attainment of the carbon monoxide 8-hour standard, and it is required to show that appropriate air quality control measures are in place to maintain recent air quality improvements.

Impacts associated with rehabilitation of the Rock Creek and Potomac Parkway and the Thompson Boat Center parking area would have negligible short-term, adverse impacts to air quality from construction activities. The transportation/traffic improvements, as they are presented in this document, would have a negligible beneficial impact to the vehicular emissions as result of improved traffic conditions. Therefore, Air Quality was dismissed as an impact topic.

SOUNDSCAPE MANAGEMENT

In accordance with the National Park Service Management Policies (NPS, 2000a) and Director's Order #47, Sound Preservation and Noise Management (NPS, 200b), an important objective of the National Park Service's mission is the preservation of natural soundscapes associated with National Park Service units. Natural soundscapes exist in the absence of human caused sound. The natural ambient soundscape is the aggregate of all the natural sounds that occur in park units, together with the physical capacity for transmitting natural sounds. Natural sounds occur within and beyond the range of sounds that humans can perceive and can be transmitted through air, water, or solid materials. The frequencies, magnitudes, and duration of human caused sound considered acceptable varies among National Park Service units. Acceptance levels of noise for each park unit are generally greater in developed areas and less in undeveloped areas.

The rehabilitation of Rock Creek and Potomac Parkway and Thompson Boat Center parking area would result in no long-term differences in noise frequencies, magnitudes, or durations. Several transportation noise sources exist such as vehicular traffic and the flight path of the Ronald Reagan Washington National Airport. Because of the nearby land uses and background levels of noise, the proposed action would have negligible impacts on sound preservation and noise management.

Furthermore, construction activities would have negligible, short-term, adverse impacts on noise levels. If either action alternative were implemented the construction contractor would be required to comply with local noise ordinances. Because either proposed action alternative if implemented would result in negligible, short-term adverse impacts on noise levels during construction and would have negligible, long-term impacts on sound preservation and noise management, Soundscape Management was dismissed as an impact topic.

LIGHTSCAPE MANAGEMENT

In accordance with National Park Service Management Policies (2001), the National Park Service strives to preserve to the extent possible the quality of lighting associated with natural ambient landscapes and the night sky. The project area already has artificial lights to keep the parkway lit during the nighttime. Both proposed action alternatives would replace-in-kind the existing lighting. Because the proposed action alternatives would have no affect on the existing lightscapes of Rock Creek Park or the Parkway, or result in any long-term or cumulative impacts, Lightscape Management was dismissed as an impact topic.

AESTHETIC AND VISUAL RESOURCES

Rock Creek Park is an administrative unit of the National Park Service that includes Rock Creek Park proper (Reservation 339) and Rock Creek and Potomac Parkway (Reservation 360). It is located in the northern portion of Washington, DC. The study area consists predominantly of the parkway, foot and bike trails, and various commercial and residential developments.

Either action alternative if implemented, would not change the aesthetic or visual character of Rock Creek Park (Reservation 339) nor the Rock Creek and Potomac Parkway (Reservation 360). Therefore, Aesthetic and Visual Resources was dismissed as an impact topic.

CULTURAL RESOURCES

Cultural resources are settings we have created in the natural world. They reveal fundamental ties between people and the land and are intertwined patterns of things both natural and constructed (Director's Order #28).

Historic Resources

The significance of historic resources is generally judged against the resource's ability to meet, at a minimum, one of the four criteria for inclusion on the National Register of Historic Places (36 CFR 60):

- Association with events that have made a significant contribution to the broad patterns of our history; or

- Association with the lives of persons significant in our past; or

- That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

- That has yielded, or may be likely to yield, information important in prehistory or history.

Resources may be eligible for the National Register for contributions at the national, state, or local level. Ordinarily, properties achieving significance within the last 50 years are not considered eligible unless they are integral parts of historic districts or unless they are of exceptional importance. The most common types of resources less than 50 years old listed on the National Register are works of modern architecture or scientific facilities. Additionally, in order for a structure or building to be listed in the National Register, it must possess historic integrity of those features necessary to convey its significance (i.e., location, design, setting, workmanship, materials, feeling, and association see National Register Bulletin #15, *How to Apply the National Register Criteria for Evaluation* (NPS, 1990).

In addition, Rock Creek Park was listed on the National Register of Historic Places as Rock Creek Park Historic District in 1991. The district's boundaries encompass Reservation 339 established as Rock Creek Park on September 27, 1890, which included 31 contributing resources.

The National Park Service in coordination with the DC Historic Preservation Office completed a survey of structures and contributing resources within Rock Creek Park and the Rock Creek and Potomac Parkway that are eligible for listing on the National Register. There is one structure within the study area. The Rock Creek and Potomac Parkway was determined eligible for listing on the National Register and the nomination is currently being finalized.

There is one resource associated with Rock Creek Park and Rock Creek and Potomac Parkway that is within the study area and listed on the National Register of Historic Places. It is the Godey Lime Kilns.

Neither action alternatives would alter those characteristics that make the kilns eligible for listing on the National Register. In addition, action alternative B, if implemented would create no impact while action alternative C, if implemented would only create a negligible, adverse impact to the Rock Creek and Potomac Parkway because it proposes to realign approximately 150 meters of the parkway. The proposed realignment under Alternative C would not alter those characteristics that make the parkway eligible for the National Register. Because there would only be no to negligible impacts to historic resources, this impact topic was dismissed from further consideration.

Indian Trust Resources

The Department of the Interior Secretarial Order 3175 (Departmental Responsibilities for Indian Trust Resources) requires that any anticipated impacts to Indian Trust Resources from a proposed action by Department of the Interior agencies be explicitly addressed in environmental documents. The Federal Indian Trust responsibility is a legally enforceable fiduciary obligation on the part of the United States to protect tribal lands, assets, resources, and treaty rights, and it represents a duty to carry out the mandates of federal law with respect to American Indian and Alaskan native tribes.

Based upon the professional judgment of park staff, Indian Trust Resources do not exist within the project site. The lands are not held in trust by the Secretary of the Interior for the benefit of Indians. Therefore, this impact topic was dismissed from further consideration.

Ethnographic Resources

The National Park Service defines ethnographic resources as any "site, structure, object, landscape or natural resource feature assigned traditional legendary, religious, subsistence or other significance in the cultural system of a group traditionally associated with it" (Director's Order - 28, Cultural Resources Management Guidelines, p. 181). Because no ethnographic resources are known to exist in the study area, Ethnographic Resources was dismissed as an impact topic.

TOPOGRAPHY, GEOLOGY, AND SOILS

The project area is situated along the eastern and western banks of Rock Creek, extending northward approximately 5,000 feet from the Potomac River. The study area is at the boundary (Fall Line) between the Piedmont and Coastal Plain physiographic provinces. The topography is relatively flat to the east and hilly to the west. The project area is approximately 10 feet above mean sea level at the Thompson Boat Center parking area and rises to approximately 50 feet above mean sea level at P Street (USGS, 1971). The study area is located on graded fill material. Historically, the area was primarily flat marshland of the Coastal Plain with parent material consisting of gravel, sand, silt, and clay lowland deposits. The thickness of the deposits varies from 0 to 150 feet, commonly containing reworked Eocene silts and clays. The northern end of the project area is at the edge of the Piedmont on an area of early Paleozoic material and undifferentiated basaltic rocks (MGS, 2000a, b, c, and d). Alternative B would entail cutting back rock outcrops to accommodate the trail realignment. The impact would be negligible, long-term, and adverse to the geology of the area.

Soils within the site have been substantially altered by the placement of fill material. In 1882, a project to improve navigation of the Potomac River transformed the marshes and tidal flats into riverside recreational areas (USDA, 1976). Dredged sediments from the Potomac River and fill hauled from off site were used in this transformation. Today, mapped soils within the study area are primarily classified as udorthents (U1) and udorthents, loamy (U4) (See Figure 4). These mapping units are characterized by earthy and sandy fill materials that have been placed in poorly drained to somewhat excessively drained soils on uplands, terraces, and floodplains of the Coastal Plain and Piedmont. The thickness of the fill is variable, but typically is more than 20 inches.

Permeability, runoff, and internal drainage tend to be quite variable. In addition, there are two small areas of Manor-Urban Land Complex soils (MdB and MdD). These are Manor loam soils that have been disturbed by the urban development and are on slopes of 0 to 8 percent and 15 to 40 percent, respectively (USDA, 1976).

None of the proposed action alternatives would affect the soils, geology, and topography greater than negligible due to the amount of earth disturbance under the proposed action and the existing highly disturbed nature of the study area. Therefore, Soils, Geology, And Topography were dismissed.

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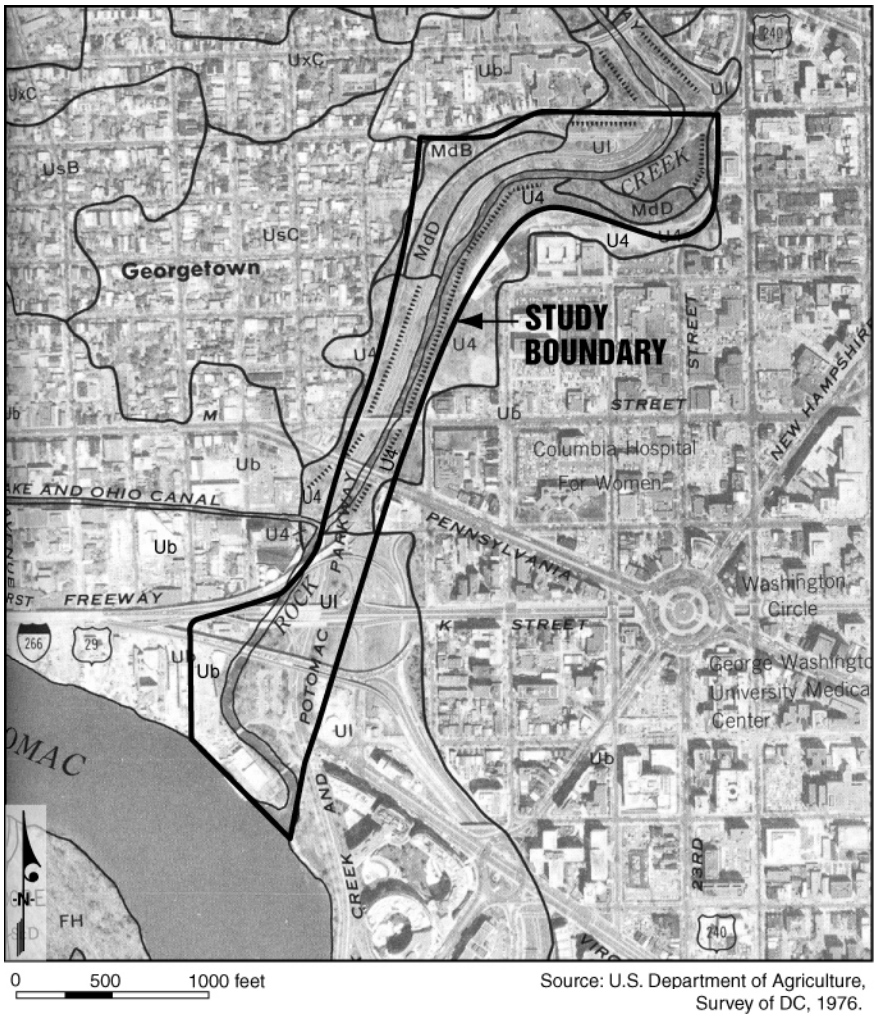

Figure 4: Soil resources in the project area

AGRICULTURAL LANDS, PRIME AND UNIQUE FARMLAND SOILS

None of the soils mapped within the project area are regulated under the Federal Farmland Protection Policy Act (7 CFR Part 658 of July 5, 1984, as superseded by the Farmland Protection Policy Act Final Rule of June 17, 1994) (USGS, 1971). Additionally, none of the soils are prime farmland soils, unique farmland soils, farmland soils of statewide importance, or identified as hydric soils by the Natural Resource Conservation Service office of the District of Columbia. None of the alternatives would affect agricultural lands, or prime or unique farmlands soils as

defined by the Natural Resource Conservation Service; therefore, these resources were dismissed as an impact topic.

WILDLIFE

Birds commonly observed in the study area are those associated with human activity and include house sparrows (*Passer domesticus*), European starlings (*Sturnus vulgaris*), common grackles (*Quiscalus quiscula*), and rock doves (pigeons) (*Colombia livia*). Other species present are those associated with edge habitats created by plantings of trees and shrubs and include northern mockingbirds (*Mimus polyglottos*), American robins (*Turdus migratorius*), blue jays (Cyanocitta cristata), and northern cardinals (*Cardinalis cardinalis*). Canadian geese (*Branta canadensis*), mallard ducks (*Anas platyrhynchos*), and gulls (*Larus spp.*) have adapted to human presence and are common along the Rock Creek and the Potomac River. Mammals present include eastern chipmunks (*Tamias striatus*), gray squirrels (*Sciurus carolinensis*), and occasional Norway rats (*Rattus norvegicus*), house mice (*Mus musculus*), and raccoon (*Procyon lotor*). Trees and shrubs planted for landscaping purposes provide nesting sites, food, and cover for many of the wildlife species present.

Only a short-term negligible disruption would occur to wildlife. The natural landscape and the modified landscape offer great diversity of habitat for identified wildlife to relocate to a more suitable habitat during the short-term disruption. Therefore, Wildlife was dismissed as an impact topic.

RARE, THREATENED, ENDANGERED, CANDIDATE SPECIES AND SPECIES OF SPECIAL CONCERN

The U.S. Fish and Wildlife Service and the National Park Service[1] were contacted to determine whether any known critical habitats or listed rare, threatened, or endangered species have been documented in the study area.

According to telephone conversations with the U.S. Fish and Wildlife Service, except for occasionally transient individuals, such as bald eagles (*Haliaeetus leucocephalus*), no proposed or federally listed endangered or threatened species are known to exist within the project area (USFWS, 2004). However, according to research, one federally endangered species, the Hay's Spring amphipod (*Stygobromus hayi*), is known to occur in five springs within Rock Creek Park and the National Zoological Park (Pavek, 2002), but is not believed to be present in the study area.

The National Park Service indicated that there are no records of any threatened or endangered species or rare species near this segment of the Rock Creek and Potomac Parkway or the Thompson Boat Center (NPS, 2004).

[1] The District of Columbia does not maintain their own official list of threatened or endangered species. Therefore, the National Park Service maintains a list for them. Although the National Park Service list is not an official threatened and endangered species list, it is the only list available at this time.

Responses from the U.S. Fish and Wildlife Service and the National Park Service are provided in Appendix A. Based upon the current site conditions and consultation, no known critical habitats or listed rare, threatened, or endangered species or species of concern exist in the study area. Therefore, this impact topic was dismissed from further consideration.

SOCIO-ECONOMIC ENVIRONMENT

The social economic environment consists of local, regional, and national businesses; the federal government; the District of Columbia government; residences; the local and regional economy; and tourism. The area surrounding Rock Creek Park, the Rock Creek and Potomac Parkway, and the Thompson's Boat Center consists of parkland, federal buildings, residential structures, and highways. The local economy and businesses include tourism and the federal government. In addition, trucks are not allowed on the parkway.

There would be no change in employment in the area if either action were implemented. Minimal employment opportunities and some related revenues from construction materials are anticipated for the rehabilitation of the parkway and parking area. Minimal economic impacts to area businesses from transportation-impeded access may occur. However, these socio-economic impacts would be short-term, adverse and negligible, with no long-term impacts to the local economies of the surrounding area. Either action alternative if implemented would be expected to have negligible short-term, adverse and no long-term impact on the socio-economic environment; therefore, the Socio-Economic Environment was dismissed as an impact topic.

LAND USE

The lower portion of the watershed includes the District of Columbia and its historic suburbs. Most open areas in the surrounding neighborhoods consist of recreational areas, parks, cemeteries, and institutions (e.g., schools and churches). Rock Creek Park administrative unit consists of nearly 3,000 acres within the District of Columbia, including Rock Creek Park, Rock Creek and Potomac Parkway, and the Thompson Boat Center. The project area portion comprises approximately ¾-mile portion of Rock Creek and Potomac Parkway. Based on the USGS National Land Cover Data, land use to the west of the project area is principally Low Intensity Residential while land use to the east is principally High Intensity Residential/Commercial/Industrial (USEPA, 2003). There is little industrial use in the vicinity of the project area and little available area for commercial or residential development. None of the action alternatives would have any impact on land use in the area; therefore, Land Use was dismissed as an impact topic.

ENVIRONMENTAL JUSTICE

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations directs federal agencies to identify and address as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority or low-income populations.

According to the 2000 U.S. Census (2000) figures, minorities in Washington, DC, comprises approximately 70 percent of the population and approximately 12 percent of the population is over the age of 65. The percentage of all individuals living below the poverty line in Washington,

DC, is approximately 19 percent, which is slightly higher than the national average of 13 percent. No disproportionate amounts of minorities or low income populations reside adjacent to the study area nor would they be adversely impacted if either action alternative were implemented. Therefore, Environmental Justice was dismissed as an impact topic.

COMMUNITY FACILITIES AND SERVICES

Emergency Services and Fire and Rescue

The District of Columbia Fire and Emergency Medical Services Department provides emergency, fire, and rescue services for Washington, DC. Implementing either action alternative would have no affect on existing fire and rescue operations.

Police

Residents of Washington, DC, are served by the Metropolitan Police Department of the District of Columbia. The U.S. Park Police are the primary responders to incidents occurring on park property and enforce federal laws and regulations. Maintaining the No-Action or implementing either action alternative for the rehabilitation of the Rock Creek and Potomac Parkway and the Thompson Boat Center parking area would have no affect on the existing police services.

Schools

Based on the review of the District of Columbia Public Schools System, there are no public schools adjacent to the Rock Creek and Potomac Parkway and Thompson Boat Center parking area. The closest public school is located at 1050 21st Street NW, approximately 0.5 mile from the project area. Maintaining the No-Action or implementing either action alternative for the rehabilitation of the Rock Creek and Potomac Parkway and the Thompson Boat Center parking area would have no affect on schools in the area.

Parks and Recreation

Rock Creek Park is the administering unit for Rock Creek Park, Rock Creek and Potomac Parkway, and the Thompson Boat Center, which is part of the National Park System. The Rock Creek Park administering unit makes up approximately 3,000 acres in northwest Washington, DC. The Rose Park Recreation Center, tennis courts operated by the District of Columbia Parks and Recreation Department, is located along the western edge of Rock Creek Park at 26th and O Streets, NW.

Community facilities and services are anticipated to have negligible, short-term, adverse impacts if either action alternative for the rehabilitation of Rock Creek and Potomac Parkway and the Thompson Boat Center parking area were implemented. Therefore, Community Facilities and Services were dismissed as an impact topic.

CONCESSION OPERATIONS

The Thompson Boat House is a facility of the National Park Service managed, operated and maintained by a concessionaire, Guest Services, Inc., under a long-term contract. The Thompson Boat Center is open to the public; however, use of the facility is restricted to patrons, which participate in developmental programs, store or launch shells, rent boats or bicycles, or are affiliated with organizations, which are patrons of the Thompson Boat House. The Thompson Boat House's official opening date is March 1 but is weather dependent. The official closing date

is November 15 but again is weather dependent. Over the years, the open season has varied slightly because of weather conditions dictating the closure. During the season, the administrative offices, locker rooms and public restrooms, bays storage compound, and crew bathrooms are open 6:00 a.m. to 8:00 p.m. Monday through Saturday and 7:00 a.m. to 7:00 p.m. on Sundays.

The time of year work restriction for closing access into the Thompson Boat House would minimize impacts on the concessionaire's operations. Access to the Thompson Boat House can only be closed for a period up to 30 days between November 1 and November 30. The adverse impact from construction on the concessions operation would be negligible and short-term because the Thompson Boat House would be closed to public use for the season. The rehabilitation work on the parking lot would be conducted in such a manner that half the parking area would remain open and access to the boat house maintained during the course of construction. The National Park Service would coordinate timing of construction with the concessionaire to minimize interruption of service. As a result, implementation of any of the alternatives would have negligible, short-term, adverse impacts on concessions. Long-term, the improvements to the parking area, access road, and bridge would have a beneficial impact. This long-term beneficial impact on the concession would be negligible and likely not result in a noticeable increase in patronage or use of the facility. As a result, Concession Operations was dismissed as an impact topic in this Environmental Assessment.

PARK OPERATIONS

In 2003, Rock Creek Park had an annual operating budget $6,260,000. The park is approximately 3,000 acres and in 2002 recorded over 2 million recreational visits and an estimated 10 to 12 million commuters a year. The National Park Service is responsible for administering, maintaining, operating, and policing the park grounds and its many facilities. Unless otherwise designated, all parkland is open between the hours of sunrise and sunset. The Thompson Boat House is operated by a concessionaire. The U.S. Park Police is responsible for traffic control measures during one way traffic operation conversions for the morning and evening rush hours commutes on Rock Creek and Potomac Parkway.

The section of Rock Creek and Potomac Parkway from Virginia Avenue to P Street represents a small portion of the area of the roadway that administering National Park Service staff is responsible for maintaining. In addition, operation and maintenance activities would not be hampered by the proposed alternatives. As a result, the implementation of any of the action alternatives would have negligible, short-term, and adverse impacts and negligible long-term beneficial impacts on park operations. Therefore, Park Operations has been dismissed as an impact topic in this Environmental Assessment.

INFRASTRUCTURE

Water and Sewer Service

Water and sewer service in the project area are provided by the District of Columbia Water and Sewer Authority. There are three stormwater outfalls and six combined stormwater and sewer outfalls in the project area. In addition, there are four combined outfalls immediately upstream of the project area and one below the project area. Storm drains from the parkway connect to lines leading to Rock Creek. Sanitary sewer lines and combined stormwater/sewer lines are buried

under the parkway. Water lines are either suspended under (or on) bridges over the parkway. Rehabilitation of the parkway or parking area would not impact the water lines or sewer lines in the project area, although some drop inlets would be constructed or reconfigured along the parkway.

Electrical Power and Natural Gas

Electrical power is provided in the area by PEPCO and natural gas is supplied by Washington Gas. Electrical cables and gas lines crossing the area are suspended on bridges over the parkway. Electric cables for parkway lighting are buried along the parkway edge. A 7-foot by 7-foot steam tunnel lies beneath the parkway between the Whitehurst Freeway and M Street. Rehabilitation of the parkway or parking area would not impact the electrical power or gas service in the project area.

Communication

Area land-line communication utilities are provided by Verizon. No lines are buried beneath the parkway. Rehabilitation of the parkway or parking area would not impact the communication service in the project area.

Waste Management

Solid waste generated from the rehabilitation of the parkway and parking area would be disposed of by a commercial licensed waste management company that would comply with all federal and state requirements. Waste management at the Thompson Boat House is handled by the contract concessionaire.

The existing infrastructure within the project area is anticipated to have a negligible, short-term, adverse impact while sections of the infrastructure are closed during installation of new infrastructure. The existing infrastructure within the project area is anticipated to have a negligible, long-term, beneficial impact if either action alternative were implemented. Therefore, Infrastructure was dismissed as an impact topic.

ALTERNATIVES

This section describes the Rock Creek Park's management alternatives for the rehabilitation of the Rock Creek and Potomac Parkway and Thompson Boat Center parking area. Alternatives for this project were developed to resolve potential issues associated with safety, drainage, and deteriorating conditions of the pavement.

ALTERNATIVE A – NO-ACTION

The No-Action Alternative describes the action of continuing the present management operations and conditions. It does not imply or direct discontinuing the present action or removing existing uses, development, or facilities. The No-Action Alternative provides a basis for comparing the management direction and environmental consequences of the alternatives. Should the No-Action Alternative be selected, the National Park Service would respond to future needs and conditions associated with the Rock Creek and Potomac Parkway and the Thompson Boat Center without major actions or changes in present course.

Under the No-Action Alternative, the National Park Service would conduct minor spot repairs to the parkway and Thompson Boat Center parking area, access road, and bridge. The parking surface at the boathouse would not be removed and resurfaced. A comprehensive milling and resurfacing program for the parkway would not be conducted. Neither the foot and bike trail or the parkway would be realigned to separate the trail users from the traffic on the parkway. Bridge repairs along this section of the Parkway would not be conducted, which would not prolong the life of the bridges. Figure 5 shows an existing cross section of the Rock Creek and Potomac Parkway.

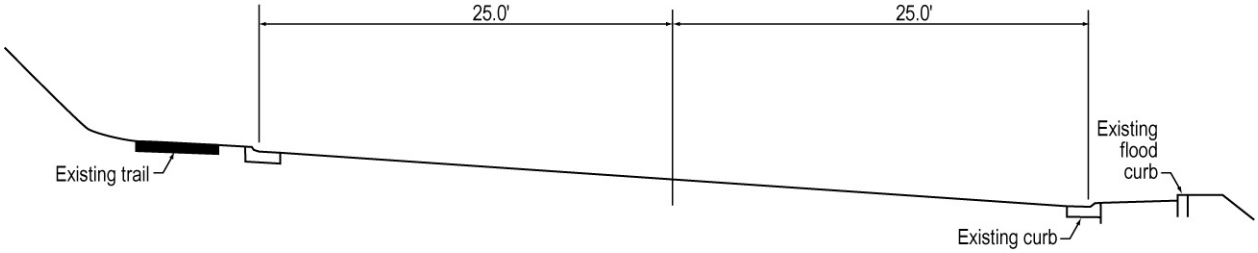

Figure 5: Existing cross section of Rock Creek and Potomac Parkway

ALTERNATIVE B – PARKWAY REHABILITATION WITH TRAIL REALIGNMENT (PREFERRED ALTERNATIVE)

Under Alternative B, the National Park Service would rehabilitate the Rock Creek and Potomac Parkway from Virginia Avenue to P Street. As part of the rehabilitation, the National Park Service would realign a segment of the foot and bike trail away from the parkway. The other primary component of Alternative B is the rehabilitation of the access road, bridge and parking area to the Thompson Boat Center. New drop inlets would be installed along the parkway and at the Thompson Boat Center parking area.

Parkway Rehabilitation

The National Park Service would mill and resurface the parkway from Virginia Avenue to P Street. The existing street lights would be replaced with the same type of pole; however, the type of lighting will be changed to metal halide. New steel-backed timber guardrails would be placed between the parkway and the trail, including placing a 1.5-foot asphalt strip along the guard rail for vegetation control. Existing sections of the guardrail between the Parkway and Rock Creek would be replaced with steel-backed timber, but no new guardrail would be installed on this side of the Parkway. Sections of the parkway with a concrete base would be repaired as necessary. Rumble strips would be added in the median along the entire length of the project to alert motorists crossing the centerline.

Starting at Virginia Avenue heading north to approximately K Street, existing concrete curbs on the island along the Parkway would be replaced with granite curbs, but the stone blocks in the median would be retained. The outside Parkway curbs in this section would also be replaced with granite curbs. Ramps to and from K Street and Pennsylvania Avenue would be milled and overlaid and the curbs would be replaced with concrete curbs. An asphalt sidewalk under the K Street Bridge would be replaced in kind. Minor bridge repairs would occur at the L Street Bridge. The existing curb would be removed and replaced in kind. Drainage improvements would be made to collect a seep area between M Street and P Street. An underdrain would be located behind the curb and would connect to an existing inlet. The curb and gutter along the P Street ramp would be spot replaced as necessary. A new 8-foot wide trail would be constructed on the north side of the P Street access ramp. The pavement on the access ramp to P Street would be removed and replaced.

Realignment of the Foot and Bike Trail

Segments of the foot and bike path would be realigned away from the parkway. The existing asphalt path would be removed and a new trail constructed. The new trail would be either five feet or eight feet in width. Figure 6 shows a typical cross section of the trail removal and relocation. Figure 7 depicts the location of the trail that would be realigned. In one area, the realignment of the trail would require that rock outcrops be cut back. No blasting would be permitted. In addition, steel backed timber guardrails would be added to areas to further protect trail users from the parkway traffic.

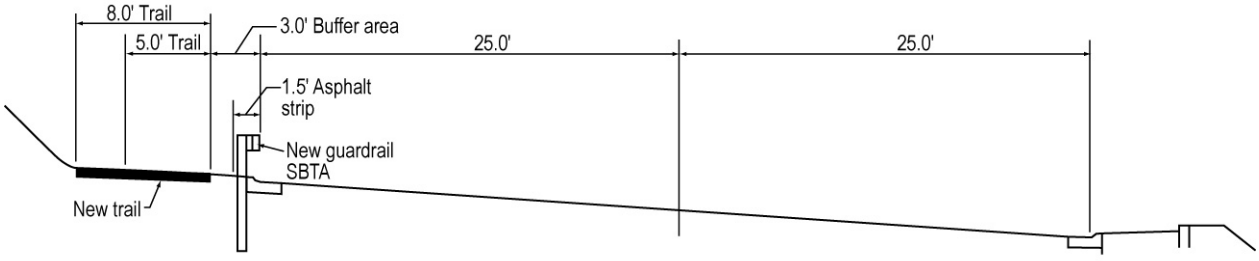

Figure 6: Cross section of foot and bike trail

Figure 7: Location of foot and bike trail realignment

Thompson Boat Center Parking Area Rehabilitation

The National Park Service would rehabilitate the existing parking area and entrance road to the Thompson Boat Center. Removal of the existing pavement in the parking area may be necessary. The National Park Service would reconstruct the parking area within the existing parking area footprint. The bridge over Rock Creek, curbs, and sidewalk on the bridge would be patched, as necessary. The bridge deck would be overlaid with concrete and sealed. Figure 8 illustrates the location of the proposed improvements.

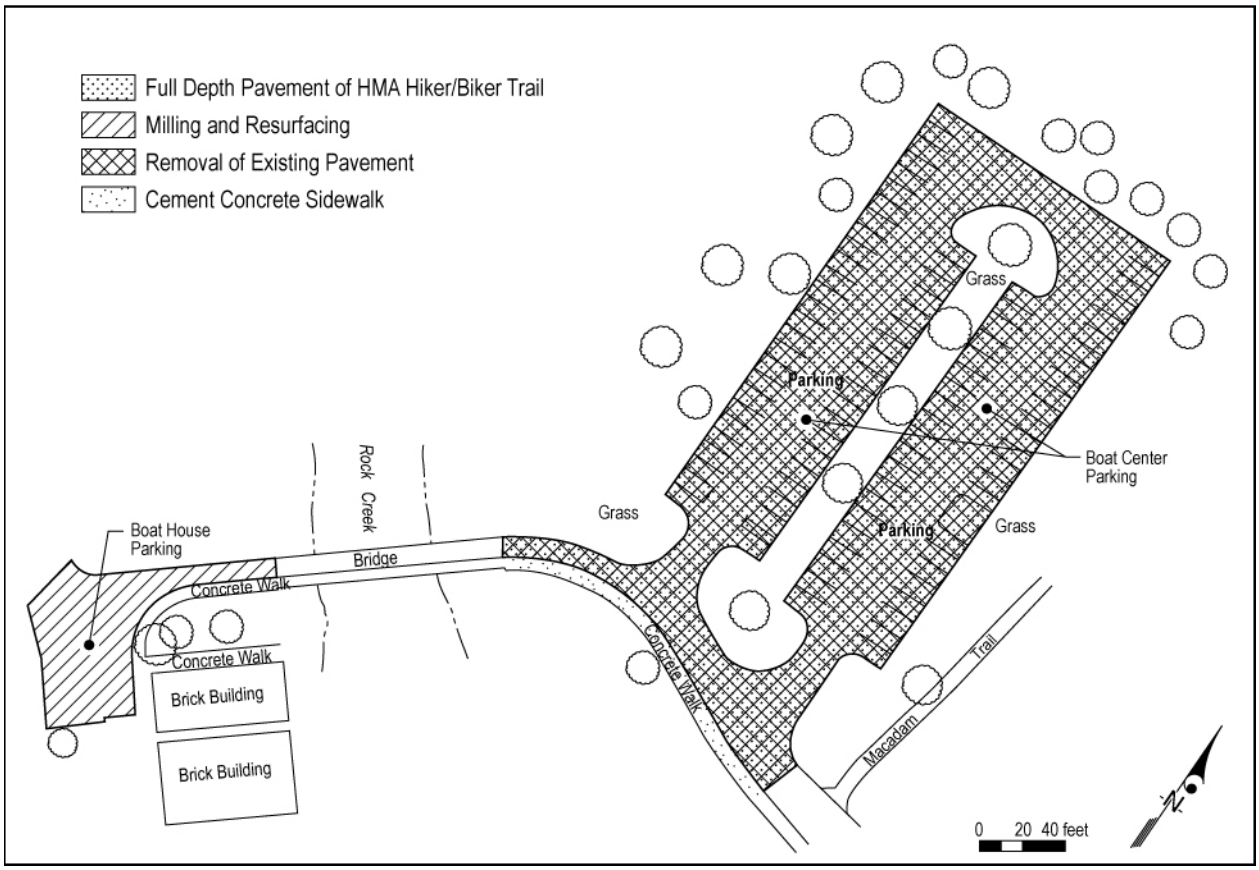

Figure 8: Thompson Boat Center parking area layout

NPS/DSC/DEC/821/41022

ALTERNATIVE C – PARKWAY REHABILITATION WITH ROADWAY REALIGNMENT

Alternative C would be the same as Alternative B except that under Alternative C, the National Park Service would rehabilitate the Rock Creek & Potomac Parkway, and shift the alignment of the parkway closer to Rock Creek rather than realigning a segment of the foot and bike trail. The parkway would be shifted to the east approximately 3 feet closer to Rock Creek from M Street to P Street. This alignment would provide more space between the curb line and the edge of the paved foot and bike trail. The realignment would remain within the existing curb line, which includes the flood curb and Figure 9 shows a cross section view of the realignment of the parkway within the existing curb line. Figure 10 illustrates the location of the parkway realignment. The bike trail would be cleaned, patched, and overlaid.

Alternative C also includes rehabilitation of the Thompson Boat Center parking area, access road and bridge as described under Alternative B.

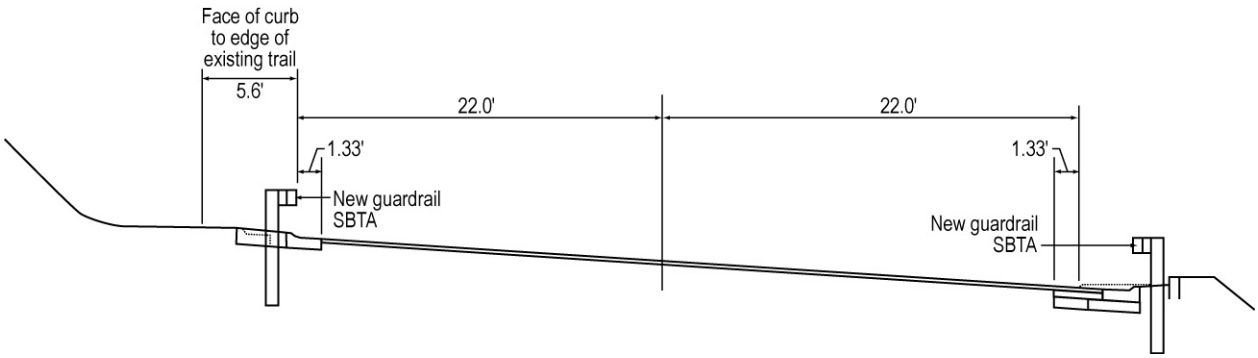

Figure 9: Cross-section of parkway realignment

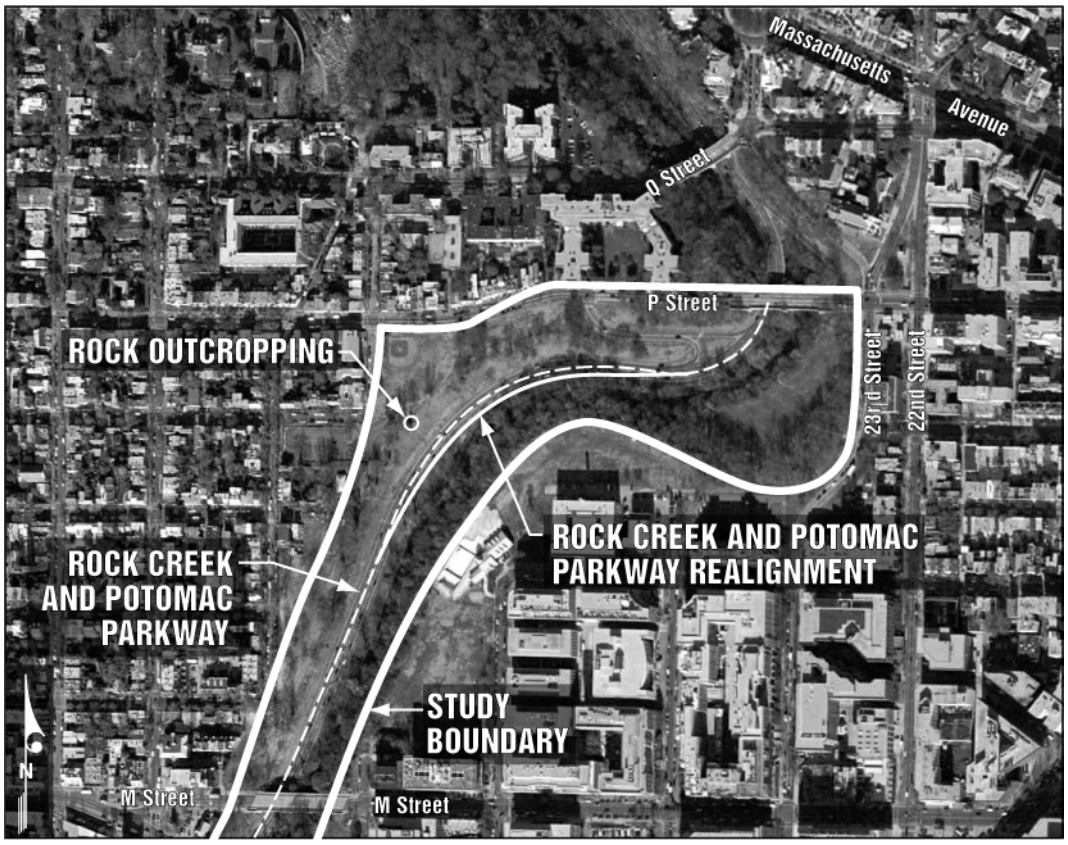

Figure 10: Location of parkway realignment

STAGING AREA

The staging area for construction activities would be located in an open area where it would not affect the operations of the Boat House. It would be located on the east side of the parkway on the south side of the Whitehurst Freeway Bridge between the Bridge and Virginia Avenue. This area was chosen because of its close proximity to the project site, and it is away from the normal trail activities and traffic flow. The potential impacts associated with the staging area were considered in the impact analysis section of this document.

MITIGATION MEASURES OF THE PREFERRED ALTERNATIVE

Mitigation measures or conditions are presented as part of the Preferred Alternative and have been developed to lessen the adverse effects of the Preferred Alternative. The following mitigation measures are recommended for the implementation of the Preferred Alternative:

- All rehabilitation work would be completed consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (36 CFR 68), the Secretary *of the Interior's Standards for Rehabilitation* (36 CFR Part 67), the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716), and the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes* (1996).

- An approved National Park Service archeologist would monitor the project area during construction. In the event that potentially significant deposits or features were discovered during this process, work would be halted until finds can be documented, their significance assessed, and appropriate mitigation strategies developed in consultation with the DC Historic Preservation Office and if necessary, a Memorandum of Agreement would be developed.

- In the event that human remains, funerary objects, sacred objects, or objects of cultural patrimony were discovered during the survey or during construction, provisions outlined in the Native American Graves Protection and Repatriation Act (25 USC 3002) of 1990 would be followed. All human remains, funerary objects, sacred objects, or objects of cultural patrimony would be left in place until the culturally affiliated tribe(s) was consulted and an appropriate mitigation or recovery strategy developed.

- A comprehensive traffic control plan would be developed before construction began and implemented during construction. This plan would specify certain work requirements to the contractor. For instance, only two lane closures at one time (one lane in each direction) for the milling and overlay of the parkway and the ramp terminals. The plan would also require that no nighttime construction take place. Other aspects of the traffic control plan include reducing the posted speed to 25 miles per hour and public notification.

- The public would be made aware of trail closures and their need for an alternative route through public media releases two weeks prior to construction, signs would be posted within the project area two weeks in advance, and Variable Message Signs would be used during the first 48 hours of each stage of construction.

- The Thompson Boat Center access road and bridge rehabilitation would only occur for a period up to 30 days between November 1 and November 30 during non-peak visitation periods.

- Before any land disturbing activities can occur a Soil Erosion Control Plan and a Stormwater Management Plan must be completed and submitted to the Sediment and Stormwater Technical Services Branch of the DC Department of Health – Environmental

Health Administration, along with a construction permit application. An erosion and sediment control plan is required for fifty square feet of land disturbance. A storm water management plan is required for five thousand square feet of land disturbance.

- During the rehabilitation of the parking area at the Thompson Boat Center, the access road must remain open and parking permitted in about half of the parking lot.

- All vegetation removed for the realignment of the foot and bike trail would be replaced in kind, including the narcissus bulbs near the rock outcrop that are non-native. (The narcissus bulbs were planted in the 1960s as part of the city-wide Beautification effort and are considered part of the historic planting associated with the parkway.) All other non-native vegetation would be replaced with native species.

ENVIRONMENTALLY PREFERRED ALTERNATIVE

In accordance with Director's Order #12 (NPS, 2001), the National Park Service is required to identify the "environmentally preferred alternative" in all environmental documents, including Environmental Assessments. The environmentally preferred alternative is determined by applying the criteria suggested in the National Environmental Policy Act of 1969, which is guided by the Council on Environmental Quality. The Council on Environmental Quality provides direction that "[t]he environmentally preferable alternative is the alternative that would promote the national environmental policy as expressed in Section 101 of the National Environmental Policy Act, which considers:

1. Fulfilling the responsibilities of each generation as trustee of the environment for succeeding generations;

2. Assuring for all generations safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

3. Attaining the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences;

4. Preserving important historic, cultural, and natural aspects of our national heritage and maintaining, wherever possible, an environment that supports diversity and variety of individual choice;

5. Achieving a balance between population and resource use that would permit high standards of living and a wide sharing of life's amenities; and

6. Enhancing the quality of renewable resources and approaching the maximum attainable recycling of depletable resources (National Environmental Policy Act, Section 101)."

The No-Action Alternative is not the environmentally preferred alternative because it does not fulfill Criteria 1 through 6 listed above. Specifically, the No-Action Alternative would not assure that the bridge, parkway, and parking area were maintained for each succeeding generation because deterioration of the bridge decking, parking lot, and parkway surface would continue. Safety would be compromised over time because potholes on the road surface would become

more prevalent and would affect safe driving conditions on the parkway. In addition, the close proximity of the trail users to the parkway would not be addressed and safety concerns would persist.

Alternative B fulfills all criteria of the environmentally preferred alternative. The rehabilitation of the parkway and the Thompson Boat Center parking area would fulfill the National Park Service's responsibilities as a responsible trustee of the environment; assure a safe and aesthetically pleasing environment for future generations; achieve a balance between the resource and the population who use the parkway to assure a high standard of living; and enhance the quality of the resource. Moving the trail further away from the parkway would create a safer environment for trail users. In addition, this action would only create a negligible impact to vegetation and wildlife from the placement of a 1.5-foot wide asphalt strip between the parkway and the trail for vegetation control.

Alternative C, while it meets some of the same criteria to be considered the environmentally preferred alternative, it does not attain the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable consequences (Criteria 3). Moving the alignment of the parkway would reduce the radius of the curve of the road just south of P Street. This would allow for an unsafe environment by creating a sharper curve for motorists to navigate. In addition, this alternative would increase the impact to the floodplain. Therefore, Alternative C is not the environmentally preferred alternative.

SUSTAINABILITY

The National Park Service has adopted the concept of sustainable design as a guiding principle of facility planning and development. The objectives of sustainability are to design park facilities to minimize adverse effects on natural and cultural values, to reflect their environmental setting, and to maintain and encourage biodiversity; to construct and retrofit facilities using energy-efficient materials and building techniques; to operate and maintain facilities to promote their sustainability; and to illustrate and promote conservation principles and practices through the sustainable design and ecologically sensitive use. Essentially, sustainability is living within the environment with the least impact on the environment.

Rehabilitation of the parkway and the Thompson Boat Center parking area would subscribe to and support the National Park Service's guiding principles on sustainability. The milling and overlaying of a segment of the parkway and resurfacing of the parking area would extend the useful life of the parkway and parking area by 25 to 30 years. In addition, the preferred alternative would create the least impact on the environment.

The No-Action Alternative would not extend the useful life of parkway and parking area. Only minor spot repairs to the parkway and Thompson Boat Center parking lot, access road, and bridge would occur. A comprehensive milling and resurfacing program for the parkway would not be conducted. Continual spot repairs would not create the least impact on the environment. Likewise, Alternative C would also not create the least impact on the environment. By shifting the parkway, greater impact to the floodplain and vegetation and wildlife would occur. Therefore, neither the No-Action Alternative nor Alternative C would subscribe to nor support the National Park Service's guiding principles on sustainability.

CONSTRUCTION COST AND SCHEDULE

The cost of the project is estimated to be $4 million. The National Park Service plans to begin work on the rehabilitation of the Rock Creek and Potomac Parkway from Virginia Avenue to P Street and the Thompson Boat Center starting in FY 2005.

ALTERNATIVES CONSIDERED BUT DISMISSED

There were no other feasible alternatives considered, therefore, no alternatives were dismissed from further analysis.

IMPACT COMPARISON MATRIX

Table 1 compares and contrasts each of the alternatives, including the degree to which each alternative accomplishes the purpose or fulfills the need identified in the purpose and need section. Table 2 presents impacts of the project alternatives, including the No-Action Alternative, for comparison purposes, and a concise summary of each alternative's potential effects by impact topic.

TABLE 1: COMPARATIVE SUMMARY OF THE NO-ACTION AND ACTION ALTERNATIVES

Alternative A (No-Action Alternative)	Alternative B Parkway Rehabilitation with Trail Realignment (Preferred Alternative)	Alternative C Parkway Rehabilitation with Roadway Realignment
Under Alternative A, the National Park Service would continue minor spot repairs to the parkway and Thompson Boat Center parking lot. No comprehensive milling and resurfacing program would be conducted. The foot and bike trail would not be realigned. The parking surface at the Boat Center would not be removed and resurfaced.	Under Alternative B, the National Park Service would realign a segment of the foot and bike trail away from the parkway. The parkway would be milled and resurfaced from Virginia Avenue to P Street and sections of the parkway would be removed and replaced in kind. Existing street lights would be replaced and the existing median at Virginia Avenue would be removed and replaced in kind. Minor bridge repairs to the L Street Bridge would occur and ramps to and from K Street and Pennsylvania Avenue would be milled and overlaid. The realignment of the trail would require that rock outcrops be cut back. Drainage improvements would occur to collect a seep area. The Thompson Boat Center parking area would be reconstructed within the existing footprint.	Alternative C would be the same as Alternative B except the parkway from M Street to P Street would be realigned closer to Rock Creek instead of realigning the trail.

Alternative A (No-Action Alternative)	Alternative B Parkway Rehabilitation with Trail Realignment (Preferred Alternative)	Alternative C Parkway Rehabilitation with Roadway Realignment
Meets Project Objectives? No, the No-Action Alternative does not meet the purpose and need for the project. This alternative would not increase safety for trail-users and motorists, would not increase accessibility, and would not provide better drainage.	**Meets Project Objectives?** Yes, Alternative B meets the purpose and need for the project. Alternative B would provide for increase accessibility for visitors with disabilities and would provide better drainage of the parkway. In addition, it would provide increased safety for trail-users and motorists.	**Meets Project Objectives?** No, alternative C would not meet the project objectives. While Alternative C would provide for increased accessibility for visitors with disabilities, would provide better drainage of the parkway, and provide increased safety between trail-users and motorists; it would entail realigning the parkway closer to Rock Creek, which would impact a greater amount of grassed vegetation and have greater impact to the floodplain.

TABLE 2: COMPARATIVE SUMMARY OF POTENTIAL ENVIRONMENTAL IMPACTS

Impact Topic	Alternative A No-Action Alternative	Alternative B	Alternative C
Cultural Landscapes	Continued deterioration of the parkway and the parking area would create a minor, long-term, adverse impact. Minor, long-term, adverse cumulative effects would occur.	Improvements to the parkway and parking area at Thompson Boat Center would have a minor, long-term, adverse effect on the cultural landscape because changes would alter a pattern or feature of the landscape, but would not diminish the overall integrity of the landscape and no new elements are being added to the historic setting. A minor, long-term, adverse cumulative effect would be anticipated.	Because the cultural landscape would be altered, Alternative C would have a minor, long-term, adverse impact on the cultural landscape. A minor, long-term, adverse cumulative effect would be anticipated.
Archeological Resources	No impact to archeological resources would occur because there would be no ground disturbance activities. The No-Action Alternative would not contribute any increment to cumulative effects.	The National Park Service would mitigate (by monitoring all ground disturbance of previously undisturbed soils) to avoid any adverse impacts to archeological resources associated with the construction of new drop inlets; therefore, no impact to archeological resources would occur. Mitigation strategies would be developed in consultation with the DC Historic Preservation Officer and, if necessary, a Memorandum of Agreement would be developed. Alternative B would not contribute any increment to	Implementation of Alternative C would have the same impact as Alternative B.

Impact Topic	Alternative A No-Action Alternative	Alternative B	Alternative C
		cumulative effects.	
Health and Safety	Under the No-Action Alternative, impacts would be moderate, long-term, and adverse because the trail would remain close to the roadway without any protective barrier and the deteriorating pavement and bridge conditions would eventually cause road hazards to motorists and boat house users. No adverse cumulative effects would occur.	Alternative B would have moderate, long-term, beneficial impacts on health and safety because of the numerous components designed to improve the safety of the trail, parkway, and Thompson Boat Center parking area. Minor, short-term, adverse impacts would result during construction from temporary trail detours, rerouting of vehicular traffic, and nearby construction activities. Minor, short-term, adverse cumulative effects would occur during construction. A moderate, long-term, beneficial cumulative impact would occur.	Implementation of Alternative C would have the same impacts as Alternative B, except a minor, long-term, adverse impact would occur from relocating the roadway toward Rock Creek. This would reduce the radius of the curve just south of P Street, creating a less safe curve for motorists to navigate.
Vegetation	Vegetation in this area of the foot and bike trail would not be impacted by the No-Action Alternative as any minor repairs would be in the existing footprint of the parkway. In the area of the Thompson Boat Center parking, visitors have worn deep trails by cutting across the grass causing minor to moderate, long-term, adverse impacts to vegetation. The No-Action Alternative, when added to the actions proposed under the cumulative affect scenario, would contribute an appreciable adverse increment to the minor, long-term, adverse cumulative effects.	Alternative B would create a negligible, short-term, adverse impact to vegetation from the removal of some grassed areas. Minor to moderate, long-term, beneficial impacts would result from removing and replacing the concrete sidewalk. Alternative B, when added to the actions proposed under the cumulative affect scenario, would contribute a negligible adverse increment to the minor, long-term, adverse cumulative effects.	Alternative C would create a minor, long-term, adverse impact to vegetation from the removal of some grassed areas along the parkway. Alternative C, when added to the actions proposed under the cumulative affect scenario, would contribute an appreciable adverse increment to the minor, long-term, adverse cumulative effects.

Impact Topic	Alternative A No-Action Alternative	Alternative B	Alternative C
Transportation/ Traffic	Under the No-Action Alternative, moderate, long-term, adverse impacts would occur to transportation/traffic because the conditions along the parkway would continue to deteriorate to the point where traffic flows and parking at the Thompson Boat Center would be affected by the poor pavement conditions and the eventual closure of the road to perform a comprehensive milling and overlaying program. The No-Action Alternative, when added to the actions proposed under the cumulative affect scenario, would contribute an appreciable adverse increment to the minor, long-term, adverse cumulative effects.	Overall, implementation of Alternative B would have a moderate, long-term, beneficial impact on transportation/traffic because of the infrastructure improvements. A moderate, short-term, adverse impact would occur to trail access and parkway use because of necessary closures during construction. Impacts would be mitigated, to the degree possible through public notifications and work restrictions during peak use periods. Alternative B, when added to the actions proposed under the cumulative affect scenario, would contribute a negligible beneficial increment to the minor, long-term, beneficial cumulative effects. With proper coordination of construction activities, the short-term, adverse cumulative effect would be minor.	Impacts for Alternative C would be short-term moderate and adverse and minor long-term and adverse because of the sharper curve installed at the parkway. Alternative C, when added to the actions proposed under the cumulative affect scenario, would contribute a negligible adverse increment to the minor, long-term, adverse cumulative effects. With proper coordination of construction activities, the short-term, adverse cumulative effect would be minor.
Visitor Use & Experience	Under the No-Action Alternative, the parkway pavement would continue to worsen over time and reduce visitor experience. The trail would remain in close proximity to vehicles on the parkway, which also has an adverse impact on visitor experience. Overall, implementation of the No-Action Alternative would have a minor, long-term, adverse impact on visitor experience and use. The cumulative effect on transportation/traffic would be minor, short-term, and adverse.	Overall, Alternative B would have a moderate, long-term, beneficial impact on the visitor experience because of improvements to the road, trail, and parking infrastructure. These improvements would enhance visitor enjoyment at the park and provide visitors with a safer environment. Overall, the cumulative effect on visitor experience and use would be minor, long-term, and beneficial. With coordination of construction activities, the short-term, adverse, cumulative effect would be minor.	Impacts for Alternative C would be minor, long-term, and beneficial because of improvements to the road, trail, and parking infrastructure, but this alternative also proposes a sharper curve installed at the parkway. The short-term impact from Alternative C would be moderate and adverse because the length of construction would be greater causing closures of the parkway for longer periods of time. Overall, the cumulative effect on visitor experience and use would be minor, long-term, and beneficial. With coordination of construction activities, the short-term, adverse, cumulative effect would be moderate.

AFFECTED ENVIRONMENT

The project area comprises approximately ¾-mile of Rock Creek and Potomac Parkway. The area consists of parking lots, the parkway, and a foot and bike trail. Rock Creek runs parallel to the parkway along the west side until Pennsylvania Avenue where it crosses under the parkway and runs parallel to the parkway on the east side. Rock Creek shifts to the west side of the parkway again at P Street. The Thompson Boat Center sits to the west of the parkway at Virginia Avenue.

The following provides further description of the specific resources determined as impact topics associated with the rehabilitation of Rock Creek and Potomac Parkway and the Thompson's Boat Center. These impacts topics were determined during internal National Park Service project scoping and in consultation with consultants from Greenhorne & O'Mara, Inc., HNTB, and the Eastern Federal Lands and Highway Division (EFLHD), as topics that may potentially have a greater than negligible adverse or beneficial impact.

CULTURAL LANDSCAPE

A cultural landscape, as described by the National Park Service's Director's Order #28, *Cultural Management Guidelines* (NPS, 1998), is:

> ..a reflection of human adaptation and use of natural resources and is often expressed the way land is organized and divided, patterns of settlement, land use, systems of circulation, and the types of structures that are built. The character of a cultural landscape is defined both by physical materials, such as roads, buildings, walls, and vegetation, and by use reflecting cultural values and traditions.

Thus, cultural landscapes are the result of the long interaction between man and the land, and the influence of human beliefs and actions over time upon the natural landscape. Shaped through time by historical land-use and management practices, as well as politics and property laws, levels of technology, and economic conditions, cultural landscapes provide a living record of an area's past. However, the dynamic nature of modern human life contributes to the continual reshaping of cultural landscapes, making them a good source of information about specific times and places, at the same time rendering their long-term preservation a challenge.

There are four general kinds of cultural landscapes; Historic Sites, Historic Designed Landscapes, Historic Vernacular Landscapes and Ethnographic Landscape (NPS, 1998). The Rock Creek and Potomac Parkway is considered a historic designed landscape.

The Rock Creek and Potomac Parkway Historic District (a.k.a. Lower Rock Creek Valley Historic District) is in the process of being listed on the National Register of Historic Places as an area of statewide significance (NPS, 2003). The Lower Rock Creek Valley has played a role in the developmental history of Washington, DC since its founding in 1791. During the 18th century, the lower valley functioned as a transportation route and a natural boundary for L'Enfant's geometric plan for the new capital. In the 19th century, the valley evolved from a power source for industry to a topographical barrier, and finally, a public dumping ground. In

the early 20th century, the valley became a historic designed landscape. Bridges spanning the valley and water-related resources fostered the physical and economic development of Georgetown and Washington, DC; several bridges represented significant architectural achievements.

The Rock Creek and Potomac Parkway became a principal component of the comprehensive park system for Washington, DC conceived in 1902 by the Senate Park Commission. Consistent with City Beautiful[2] ideals, the parkway linked principal parks in the city. The linear park joined the Mall and Potomac Park to the older National Zoological and Rock Creek Parks.

The Rock Creek and Potomac Parkway is one of the earliest parkways in the nation, the oldest in the metropolitan region, and the first to be federally funded (Congressional legislation, 1913). It is representative of early parkway design in the United States. Although it was initially intended for carriages, horseback riders, pedestrians, and the occasional recreational automobile, early design changes reflected increased automobile traffic. Accordingly, the Rock Creek and Potomac Parkway reflects issues that affected the evolution of American Parkway design. The prolonged design process ensured that the parkway was a collaborative work of several landscape architects, yet the park reflects the guiding vision of Frederick Law Olmsted, Jr. (HABS, 1992). Initially, he proffered the concept as the landscape architect member of the Senate Park Commission.

Accordingly, the Rock Creek and Potomac Parkway meets National Register Criteria A and C in the areas of community planning and development, landscape architecture, architecture, and recreation. The creation of the L'Enfant Plan and the erection of The Arts of Peace define the parkway's period of significance, 1791-1951.

ARCHEOLOGICAL RESOURCES

Prehistoric and historic objects have been recovered and catalogued from Rock Creek Park proper (Reservation 339) and the Rock Creek and Potomac Parkway (Reservation 360). There are at least 10 archeological sites in the Rock Creek valley with known prehistoric occupations. Two prehistoric archeological sites are known to exist within the project area along the exit ramp for K Street. One site sits on the southbound side of the parkway near the exit ramp for K Street and the other site sits on the northbound side of the parkway. Both sites sit adjacent of the exit ramp from K Street to the Potomac Freeway. Historic archeological sites in the park are mostly associated with historic agricultural and industrial uses during the 18th and 19th centuries. However, due to previous disturbance associated with parkway construction, subsequent rehabilitation and the addition of the paved trail and Thompson's parking lot in the project area, there is low potential for intact subsurface archeological resources at these sites.

[2] The City Beautiful Movement concerned itself with fostering an ordered and cohesive urban identity realized through the sequential arrangement of public spaces, unified groupings of buildings, the use of a monumental scale, and the employment of the Classical language of architecture often expressed in the Beaux Arts style. Although the first decade of the twentieth century marked the heyday of the Movement, interest in the City Beautiful persisted through the 1930s.

Because of the close proximity of the proposed drop inlets to the archeological sites along the exit ramp for K Street and the depth of excavation needed to compensate for the design of the new drop inlets proposed by the District of Columbia, the NPS conducted a Geomorphological Assessment to ascertain whether any original land surfaces with intact cultural resources might still persist. This assessment was conducted along the parkway and at the Thompson Boat Center in the area of the proposed drop inlets on August 27, 2004. Positive samples were found at the Thompson Boat Center parking area and at the intersection of Virginia Avenue and the Rock Creek and Potomac Parkway. There is potential for intact subsurface archeological resources in these two areas, especially in the area of the Thompson Boat Center parking area.

HEALTH AND SAFETY

A total of 657 accidents have been reported along the Rock Creek and Potomac Parkway between 1993 and 1995. Of those, 287 occurred within the project area. This includes the only two fatalities, which were collisions with pedestrians (Peccia, 1997). One of the safety concerns in the project area is the proximity of the foot and bike trail to the parkway (See Figure 11). Currently, there is no protective barrier between the trail and vehicular traffic on the parkway. This creates a safety concern for commuters, recreation bikers, and runners. In addition, the bridge approach to the Thompson Boat House has settled and adjacent walks are uneven creating a safety concern (See Figure 12).

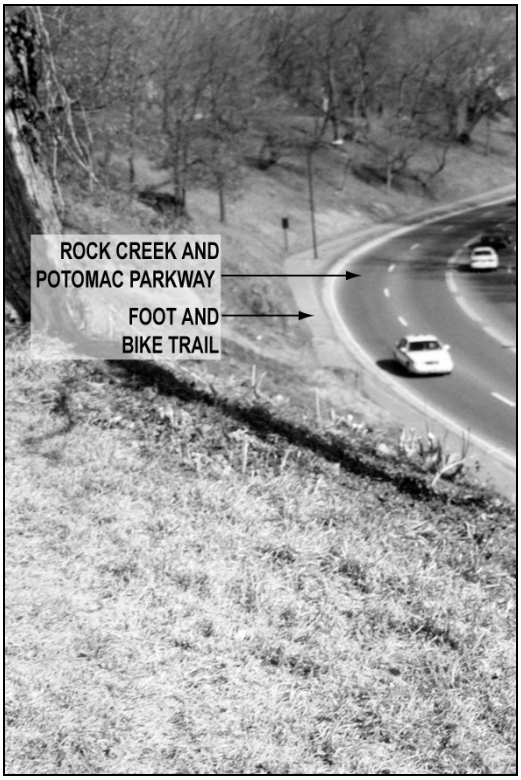

Figure 11: Foot and Bike Trail Proximity to Parkway

Figure 12: Thompson Boat Center Bridge

VEGETATION

Most wetland vegetation that naturally occurred along Rock Creek has been eliminated and replaced with seeded and transplanted species as the land and site were developed. The selection of species used for landscaping has been based primarily on aesthetics and growth characteristics and includes native species as well as non-native species that have been introduced from other regions of the United States and other continents. Common trees in the project segment of the Rock Creek and Potomac Parkway and the Thompson Boat Center area include oaks (*Quercus spp.*), maples (*Acer spp.)*, sycamore (*Platanus occidentalis*), apples (*Malus spp*.), hickory (*Carya spp*.), elm (*Ulmus sp*.), pear (*Pyrus sp.*), and willow (*Salix sp.*).

TRANSPORTATION/TRAFFIC

Roadway Characteristics. Rock Creek and Potomac Parkway is one of the principal roads within Rock Creek Park as well as an important commuter route for local residents accessing metropolitan DC. The Rock Creek and Potomac Parkway is approximately 2.5 miles in length and extends from West Potomac Park to Calvert Street (NPS GMP/EIS, 2002). The parkway is a four lane limited access road with a posted speed limit of 35 miles per hour. Typical of parkways, commercial vehicle and truck use is prohibited on the parkway. A paved foot and bike trail parallels the parkway and is located on the west side of the parkway.

The Rock Creek and Potomac Parkway is characterized by a well defined roadway clear zone containing few fixed elements (Peccia, 1997). Typically, the only fixed objects located within the clear zone are light standards, post-mounted traffic signs, and bridge supports. The parkway was constructed with a curb and gutter used for surface water drainage. The curb and gutter carry surface water to drop inlets spaced along the length of the roadway. The Parkway is a lighted corridor as well as additional lighting at intersections and interchanges, and one stop light at Virginia Avenue.

A comprehensive transportation study for Rock Creek Park was completed by Robert Peccia and Associates in 1997. For the purposes of this evaluation, it was assumed that traffic conditions are similar to the 1997 study with one exception, the average daily traffic volumes have increased from 10 to 20 percent due to growth in the DC metropolitan (FHWA, 2003). The 2002 traffic volumes were reviewed and are presented in the following section.

The Federal Highway Administration Federal Lands Highway Division provides highway and bridge design, construction, and inspection services for the National Park Service nationwide. As part of this program, the Federal Lands Highway Division performs bridge inspections on a biennial basis. Bridge inspections for this section of Rock Creek and Potomac Parkway were conducted on June 26, 2001. The Design Scoping Reports completed for this project used the bridge inspections as the basis for their findings. These reports revealed severe deterioration of pavement at both approaches and of the asphalt over the piers of the Thompson Boat Center Bridge (US DOT, 2001a). They also recommended corrective action to the P Street Bridge to prevent additional deterioration (US DOT, 2001d). All bridges would require regular maintenance to extend their useful life.

Traffic Volumes. Traffic volumes show little seasonal variation and the highest traffic levels correspond to the morning and evening peak commuter periods. To accommodate peak periods, all lanes are designated as one way southbound during the morning (6:45 a.m. to 9:30 a.m.) and one way northbound during the evening (3:45 p.m. to 6:30 p.m.) commute. It should be noted that changing the parkway to one way is a very labor intensive process conducted by the U.S. Park Police.

Rock Creek and Potomac Parkway from Virginia Avenue to the White Hurst Freeway has a carrying capacity of more than 65,000 vehicles per day based on counts conducted in the spring of 2002 (FHWA, 2003). Directly south of Virginia Avenue, the daily traffic volume on the northbound lane was 39,900 vehicles and southbound lane near the Thompson Boat Center was 29,500 vehicles (FHWA, 2003). These two areas represent the highest traffic volumes and are closest to Metropolitan DC.

Parking. Rock Creek Park has a total parking capacity near 1,800 vehicles (Peccia, 1997). All of which are located north of P Street with the exception of the Thompson Boat Center parking area. The Thompson Boat Center parking area has 92 available metered parking spaces. The average weekday occupancy of the parking area is 52 percent, and the average weekend occupancy of the parking area is 68 percent. The average weekday duration at the Thompson Boat Center parking area is 2 hours and 45 minutes, and the average weekend duration is 2 hours. This data was obtained from surveys, which were conducted in August 1996 from 8:00 a.m. to 8:00 p.m. (Peccia, 1997).

VISITOR EXPERIENCE AND USE

The Rock Creek Park General Management Plan describes the traditional character and visitor experience of Rock Creek Park. Rock Creek was intended to be a “pleasure ground” according to its establishing legislation. Visitors come for the scenery experience that accompanies a forested creek valley.

The Rock Creek Park management unit offers a wide array of visitor experiences and recreational opportunities that include paved multi-use trails, an extensive system of hiking and horse back riding trails, an 18 hole golf course, tennis courts, scenic roads, picnic areas, sports fields, community gardens, the Thompson Boat House, Rock Creek Horse Center, Carter Barron Amphitheater (NPS GMP/EIS, 2002). The management unit also administers several historic sites, parks with distinctive designs and individual character, a cemetery, and cares for a variety of outdoor sculpture. The Rock Creek and Potomac Parkway, a reservation of Rock Creek Park proper, is described in the park’s General Management Plan as “an aesthetically pleasing landscape [that provides] visitors a sense of relaxation.” The visitor experience of the parkway includes frequent encounters with other visitors and heavy traffic along the parkway is accepted. The parkway views include natural and historic features that are typical of the parkway design. The specific recreational opportunities along the parkway between Virginia Avenue and P Street include motorized and non-motorized activities such as driving, walking, bicycling, and in-line skating.

In 1997, visitor surveys were conducted as part of the *Transportation Study Rock Creek Park, Washington, DC*. For the segment of the foot and bike trail south of P Street, the average

weekday hourly volume was 112 visitors, and the average weekend hourly volume was 166 visitors. The visitor use classification was also recorded. The average percent of weekday users was distributed as 45 percent pedestrian, 54 percent bicyclist, and 2 percent in-line skaters (Peccia, 1997). During the weekend, this distribution was 28 percent pedestrian, 70 percent bicyclist, and 2 percent in-line skaters (Peccia, 1997).

The visitors using Rock Creek Park proper are primarily local residents. However, because of its designation as a national park, the park also attracts a considerable amount of tourists visiting the area. Recreational visits to the park is highest in the warmer months and drops off in late fall and winter when temperatures begin to restrict outside activities. Non-recreational visits are consistent through the course of the year. These visits are mainly commuters traveling along the parkway and make up about 25 percent of the total visitation occurring each season (NPS GMP/EIS, 2002).

ENVIRONMENTAL CONSEQUENCES

INTRODUCTION

This section describes the environmental consequences associated with each action alternative. It is organized by impact topics, which refine the issues and concerns into distinct topics for discussion analysis. These topics allow a standardized comparison between the alternatives based on their impact to the environment. The National Environmental Policy Act of 1969 requires consideration of type, context, duration, intensity, and direct, indirect, and cumulative impacts. National Park Service policy also requires that "impairment" of park resources be evaluated in all environmental documents.

METHODOLOGY FOR ASSESSING IMPACTS

Potential impacts are described in terms of:

- Type - are the effects beneficial or adverse,
- Context - are the effects site-specific, local, or regional,
- Duration - are the effects short-term, lasting less than one year, or long-term, lasting more than one year, and
- Intensity - are the effects negligible, minor, moderate, or major.

In this Environmental Assessment, the intensity of impacts is evaluated within a local context (i.e., project area or study area – see definitions on page 3), while the intensity of the contribution of effects to cumulative effects is evaluated in a regional context (i.e., Washington, DC and suburbs). Because definitions of intensity (negligible, minor, moderate, major) vary by impact topic, intensity definitions are provided separately for each impact topic analyzed in this environmental assessment. National Park Service policy requires that direct and indirect impacts be considered, but not specifically identified. Direct effect is caused by an action and occurs at the same time and place. Indirect effect is caused by an action later in time or farther removed in distance, but still reasonably foreseeable.

IMPAIRMENT TO PARK RESOURCES AND VALUES

In addition, the National Park Service's *Management Policies, 2001* (2000a) require analysis of potential effects to determine whether actions would impair park resources. The fundamental purpose of the National Park System, established by the Organic Act and reaffirmed by the General Authorities Act, as amended, begins with a mandate to conserve park resources and values. National Park Service managers must always seek ways to avoid, or to minimize to the greatest degree practicable, adverse impacts to park resources and values. However, the laws do give the National Park Service the management discretion to allow impacts to park resources and values when necessary and as appropriate to fulfill the purposes of a park, as long as the impact does not constitute impairment of the affected resources and values. Although Congress has

given the National Park Service the management discretion to allow certain impacts, that discretion is limited by the statutory requirement that the National Park Service must leave park resources and values unimpaired, unless a particular law directly and specifically provides otherwise. The prohibited impairment is an impact that, in the best professional judgment of the responsible National Park Service manager, would harm the integrity of park resources or values. An impact to any park resource or value may constitute an impairment; however, an impact would more likely constitute an impairment to the extent that it has a major adverse effect upon a resource or value whose conservation is:

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park;
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or
- identified as a goal in the park's general management plan or other relevant National Park Service planning documents.

Impairment may result from National Park Service activities in managing the park, visitor activities, or activities undertaken by concessionaires, contractors, and others operating in the park. A determination on impairment is made for each impact topic in this section. The National Park Service does not analyze visitor experience and use, socioeconomic values, or park operations for impairment.

CUMULATIVE EFFECTS

The Council on Environmental Quality regulations, which implement the National Environmental Policy Act, requires assessment of cumulative effects in the decision-making process for federal projects. Cumulative effects are defined as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions" (40 CFR 1508.7). Cumulative effects are considered for all alternatives and are presented at the end of each impact topic discussion analysis.

PROJECTS THAT MAKE UP THE CUMULATIVE EFFECTS SCENARIO

As part of the analysis and consideration of potential cumulative impacts, other past, present, and reasonable foreseeable projects were identified. For each project, the National Park Service considered the potential cumulative effect when combined with the potential impacts of rehabilitating Rock Creek and Potomac Parkway and Thompson's Boat Center parking area. The brief overview of the projects identified in the immediate area follows. Those that have the potential for cumulative effects are discussed further in the impact analysis.

- **Kennedy Center Access Improvements.** The Federal Highway Administration is proposing to improve access to the John F. Kennedy Center for the Performing Arts in Washington, DC. The project would include both transportation and urban design improvements. This would include:

- a new pedestrian signal for crossing Rock Creek and Potomac Parkway;
- new bridge over Ohio Drive for Potomac Freeway;
- realignment and signalization at the Ohio Drive/Potomac Freeway/Rock Creek and Potomac Parkway intersection to relieve congestion; and
- modification of the ramp linking eastbound Roosevelt Bridge to southbound Ohio Drive and northbound Rock Creek and Potomac Parkway.

An Environmental Assessment was submitted for public review and comment during October 2003. Construction of various parts of the project may be conducted during the construction of the Rehabilitation to the Rock Creek and Potomac Parkway from Virginia Avenue to P Street, which would create the potential for cumulative effects.

- **Swedish Embassy.** The Swedish Embassy is proposing to construct the "House of Sweden" on 30th Street at K Street, NW, which is on the west side of Rock Creek near the Thompson Boat House. For this project, the Swedish Embassy would construct two buildings. The north building would house an exhibition area, an auditorium, conference facilities, and some residences. The south building would house the chancery, and the bottom two floors would be leased. Construction is expected to be completed by 2006 and would create the potential for short-term cumulative effects.

- **DC Department of Public Works Bridge Rehabilitations.** The DC Department of Public Works is conducting two bridge rehabilitations for the Virginia Avenue and the P Street bridges. Work on the P Street Bridge is currently completed. Based upon discussions with DC Department of Public Works, work on the Virginia Avenue Bridge would not occur during the proposed project. No short-term, cumulative effects would occur.

- **Rehabilitation of Rock Creek and Potomac Parkway and Beach Drive from P Street to the Maryland State line.** In cooperation with the Federal Highway Administration, the National Park Service is looking at similar rehabilitative measures along the parkway and Beach Drive from P Street to the Maryland State line. The next project scheduled is from P Street to Calvert Street followed by a project from Beach Drive to the Maryland State Line. These projects would occur after construction is completed for this project. No short-term, cumulative effects would occur, but there is the potential for long-term, cumulative effects.

- **East-West Travel Study.** The DC Department of Public Works is beginning a travel study to look at improving travel across Rock Creek Park from Dupont Circle to Military Road. This study would look at improving multi-modal access without creating new bridges and/or roads. This study is to begin within the next few months. There is the potential for long-term, cumulative effects.

- **Georgetown Waterfront Park.** A new park would be created on approximately 10 acres of land along the Potomac River. This new park would connect the 225 miles of

public parkland that runs from the terminus of the Chesapeake & Ohio Canal, in Cumberland, Maryland to historic Mount Vernon, Virginia. This new park would consist of open lawns, informal gardens, trails for walkers and joggers, overlooks and boat launches, and a new bike path that would connect Rock Creek Park with the Capital Crescent trail. This project would begin in the near future. There is the potential for short-term and long-term cumulative effects.

IMPACTS TO CULTURAL RESOURCES AND SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

In this environmental assessment/assessment of effect, impacts to cultural landscape resources are described in terms of type, context, duration, and intensity, which is consistent with the regulations of the Council on Environmental Quality (CEQ) that implement the National Environmental Policy Act (NEPA). These impact analyses are intended, however, to comply with the requirements of both NEPA and Section 106 of the National Historic Preservation Act (NHPA). In accordance with the Advisory Council on Historic Preservation's regulations implementing Section 106 of the NHPA (36 CFR Part 800, *Protection of Historic Properties*), impacts to cultural landscapes were identified and evaluated by (1) determining the area of potential effects; (2) identifying cultural resources present in the area of potential effects that are either listed in or eligible to be listed in the National Register of Historic Places; (3) applying the criteria of adverse effect to affected cultural resources either listed in or eligible to be listed in the National Register; and (4) considering ways to avoid, minimize or mitigate adverse effects.

Under the Advisory Council's regulations, a determination of either *adverse effect* or *no adverse effect* must also be made for affected, National Register eligible cultural resources. An *adverse effect* occurs whenever an impact alters, directly or indirectly, any characteristic of a cultural resource that qualifies it for inclusion in the National Register, e.g. diminishing the integrity of the resource's location, design, setting, materials, workmanship, feeling, or association. Adverse effects also include reasonably foreseeable effects caused by the preferred alternative that would occur later in time, be farther removed in distance or be cumulative (36 CFR 800.5, *Assessment of Adverse Effects*). A determination of *no adverse effect* means there is an effect, but the effect would not diminish in any way the characteristics of the cultural resource that qualify it for inclusion in the National Register.

CEQ regulations and the National Park Service's *Conservation Planning, Environmental Impact Analysis and Decision Making* (Director's Order #12; NPS, 2001) also call for a discussion of the appropriateness of mitigation, as well as an analysis of how effective the mitigation would be in reducing the intensity of a potential impact, e.g. reducing the intensity of an impact from major to moderate or minor. Any resultant reduction in intensity of impact due to mitigation, however, is an estimate of the effectiveness of mitigation under NEPA only. It does not suggest that the level of effect as defined by Section 106 is similarly reduced. Cultural resources are non-renewable resources and adverse effects generally consume, diminish, or destroy the original historic materials or form, resulting in a loss in the integrity of the resource that can never be recovered. Therefore, although actions determined to have an adverse effect under Section 106 may be mitigated, the effect remains adverse.

A Section 106 summary is included in the impact analysis sections for cultural landscapes and archeology. The Section 106 summary is intended to meet the requirements of Section 106 and is an assessment of the effect of the undertaking (implementation of either action alternative) on cultural resources, based upon the criterion of effect and criteria of adverse effect found in the Advisory Council's regulations.

IMPACTS ON CULTURAL LANDSCAPES

DEFINITION OF INTENSITY LEVELS

In order for a cultural landscape to be listed in the National Register, it must meet one or more of the following criteria of significance: A) associated with events that have made a significant contribution to the broad patterns of our history; B) associated with the lives of persons significant in our past; C) embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic value, or represent a significant and distinguishable entity whose components may lack individual distinction; D) have yielded, or may be likely to yield, information important in prehistory or history (*National Register Bulletin, How to Apply the National Register Criteria for Evaluation*). The landscape must also have integrity of those patterns and features - spatial organization and land forms; topography; vegetation; circulation networks; water features; and structures/buildings, site furnishings or objects - necessary to convey its significance (*Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for the Treatment of Cultural Landscapes*). For purposes of analyzing potential impacts to cultural landscapes, the thresholds of change for the intensity of an impact are defined as follows:

- *negligible*: Impact(s) is at the lowest levels of detection - barely perceptible and not measurable. For purposes of Section 106, the determination of effect would be *no adverse effect*.

- *minor*: Adverse impact – impact(s) would alter a pattern(s) or feature(s) of the cultural landscape but would not diminish the overall integrity of the landscape. For purposes of Section 106, the determination of effect would be *no adverse effect*.

  beneficial impact – preservation of landscape patterns and features in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for the Treatment of Cultural Landscapes.* For purposes of Section 106, the determination of effect would be *no adverse effect.*

- *moderate*: Adverse impact - impact(s) would alter a pattern(s) or feature(s) of the cultural landscape, diminishing the overall integrity of the landscape. For purposes of Section 106, the determination of effect would be *adverse effect*. A Memorandum of Agreement is executed among the National Park Service and applicable state or tribal historic preservation officer and, if necessary, the Advisory Council on Historic Preservation in accordance with 36 CFR 800.6(b). The mitigation measures identified in the Memorandum of Agreement reduce the intensity of impact from major to moderate.

  beneficial impact – rehabilitation of a landscape or its patterns and features in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties With*

Guidelines for the Treatment of Cultural Landscapes. For purposes of Section 106, the determination of effect would be *no adverse effect.*

- *major*: Adverse impact - impact(s) would alter a pattern(s) or feature(s) of the cultural landscape, diminishing the overall integrity of the resource. For purposes of Section 106, the determination of effect would be *adverse effect*. The National Park Service and applicable state or tribal historic preservation officer would be unable to negotiate and execute a Memorandum of Agreement in accordance with 36 CFR 800.6(b).

  beneficial impact – restoration of a landscape or its patterns and features in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for the Treatment of Cultural Landscapes*. For purposes of Section 106, the determination of effect would be *no adverse effect.*

Duration: Short-term – Effects lasting for the duration of the construction activities (less than 1 year); Long-term – Effects lasting longer than the duration of the construction (longer than 1 year).

ALTERNATIVE A - NO-ACTION ALTERNATIVE

The rehabilitation of the Rock Creek Park and Potomac Parkway and the Thompson Boat Center parking area would not occur under the No-Action Alternative. Continued deterioration of the parkway and the parking area would create a minor, long-term, adverse impact.

Cumulative Effects. Under the No-Action Alternative the rehabilitation of the Rock Creek Park and Potomac Parkway and the Thompson Boat Center parking area would not occur. Planned future road improvements such as the Kennedy Center Improvements and the DC Department of Public Works Bridge Rehabilitation combined with the No-Action Alternative would have no cumulative effect. Rehabilitation of Rock Creek and Potomac Parkway from P Street, NW to the Maryland State line, the East-West Travel Study, and the Georgetown Waterfront Park may impact the cultural landscape. Therefore, when added to the No-Action Alternative a minor, long-term, adverse cumulative effect on the cultural landscape would occur.

Conclusion. The rehabilitation of the Rock Creek Park and Potomac Parkway and the rehabilitation of the Thompson Boat Center parking area would not occur under the No-Action Alternative. Continued deterioration of the parkway and the parking area would create a minor, long-term, adverse impact. Minor, long-term, adverse cumulative effects would occur.

ALTERNATIVE B – PARKWAY REHABILITATION WITH TRAIL REALIGNMENT (PREFERRED ALTERNATIVE)

Under Alternative B, the improvements to the parkway between Virginia Avenue and P Street would have no impact on the cultural landscape because the improvements would not add new components to the historic setting of the project area. Realigning the trail, removing the outcropping of rocks, adding new guardrails, adding rumble strips, and replacing the stone curb would change the landscape. These changes would create a minor, long-term, adverse impact on the cultural landscape under the National Environmental Policy Act. The impact would be minor because the changes the impact would alter or add to an existing pattern and/or feature of the

cultural landscape, but it would not diminish the overall integrity or historic setting of the landscape.

Improvements to the parking area at Thompson Boat Center would have no impact on the cultural landscape because no new elements would be added to the historic setting. Accessibility to the parking area would be improved.

All rehabilitation work would be consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (36 CFR 68), the *Secretary of the Interior's Standards for Rehabilitation* (36 CFR Part 67), the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716).

Cumulative Effects. Under Alternative B, Rock Creek and Potomac Parkway, from Virginia Avenue to P Street, would be rehabilitated and the trail realigned creating minor changes to the cultural landscape. Planned future road improvements such as the rehabilitation of Rock Creek and Potomac Parkway from P Street, NW to the Maryland State line, the East-West Travel Study, and the Georgetown Waterfront Park may impact the cultural landscape. Therefore, when added to Alternative B a minor, long-term, adverse cumulative effect on the cultural landscape would occur. Kennedy Center improvements and the DC Department of Public Works Bridge Rehabilitation projects combined with the Alternative B would have no cumulative effect.

Conclusion. Improvements to the parkway and parking area at Thompson Boat Center would have a minor, long-term, adverse effect on the cultural landscape because changes would alter or add to an existing pattern and/or feature of the cultural landscape, but it would not diminish the overall integrity of the landscape. A minor, long-term, adverse cumulative effect would be anticipated.

Because there would be no major, adverse impacts to resources or values whose conservation are (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

Section 106 Summary. In accordance with Section 106 of the National Historic Preservation Act, implementation of Alternative B would have *no adverse effect* on the cultural landscape. No adverse effect to the cultural landscape would occur because Alternative B would not alter those characteristics that make the parkway eligible for the National Register.

After applying the Advisory Council on Historic Preservation's criteria of adverse effect (36 CFR 800.5), the National Park Service proposes that implementing Alternative B would have no adverse effect on the cultural landscape. The National Park Service, pursuant to Section 106, has initiated consultation with the District of Columbia State Historic Preservation Office to obtain their concurrence on this determination.

ALTERNATIVE C - PARKWAY REHABILITATION WITH ROADWAY REALIGNMENT

Under Alternative C, the parkway, between Virginia Avenue and P Street, would be rehabilitated and realigned. The road between P Street and K Street was previously widened in 1957. This alternative would include realigning the parkway, adding new guardrails, adding rumble strips, and replacing the stone curb that would change the landscape. These changes would create a minor, long-term, adverse impact because the landscape would be altered, but it would not diminish the overall integrity of the resources.

All rehabilitation work would be consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (36 CFR 68), the *Secretary of the Interior's Standards for Rehabilitation* (36 CFR Part 67), the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716).

Cumulative Effects. Under Alternative C, Rock Creek and Potomac Parkway, from Virginia Avenue to P Street, would be rehabilitated and a portion of the parkway realigned creating changes to the cultural landscape. Planned future road improvements such as the rehabilitation of Rock Creek and Potomac Parkway from P Street, NW to the Maryland State line, the East-West Travel Study, and the Georgetown Waterfront Park may impact the cultural landscape. Therefore, when added to Alternative C a minor, long-term, adverse cumulative effect on the cultural landscape would occur. Kennedy Center improvements and the DC Department of Public Works Bridge Rehabilitation projects combined with the Alternative C would have no cumulative effect.

Conclusion. Because the cultural landscape would be altered, Alternative C would have a minor, long-term, adverse impact on the cultural landscape. A minor, long-term, adverse cumulative effect is anticipated to occur.

Because there would be no major, adverse impacts to resources or values whose conservation are (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

Section 106 Summary. In accordance with Section 106 of the National Historic Preservation Act, implementation of Alternative C would have an *adverse effect* on the cultural landscape. Alternative C would alter a primary design element, which would slightly diminish the integrity of the cultural landscape; therefore, it has the potential to affect its overall integrity.

After applying the Advisory Council on Historic Preservation's criteria of adverse effect (36 CFR 800.5), the National Park Service proposes that implementing Alternative C would have an adverse effect on the cultural landscape. The National Park Service pursuant to Section 106 has initiated consultation with the District of Columbia State Historic Preservation Office to get their concurrence on this determination.

IMPACTS TO ARCHEOLOGICAL RESOURCES

DEFINITION OF INTENSITY LEVELS

In order for an archeological resource to be eligible for the National Register of Historic Places it must meet one or more of the following criteria of significance: A) associated with events that have made a significant contribution to the broad patterns of our history; B) associated with the lives of persons significant in our past; C) embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic value, or represent a significant and distinguishable entity whose components may lack individual distinction; D) have yielded, or may be likely to yield, information important in prehistory or history. In addition, the archeological resource must possess integrity of location, design, setting, materials, workmanship, feeling, association (*National Register Bulletin, Guidelines for Evaluating and Registering Archeological Properties*). For purposes of analyzing impacts to archeological resources either listed in or eligible to be listed in the National Register, the thresholds of change for intensity of an impact are defined below:

- *negligible*: Impact is at the lowest levels of detection with neither adverse nor beneficial consequences. The determination of effect for Section 106 would be no adverse effect.

- *minor:* Adverse impact — disturbance of a site(s) results in little, if any, loss of integrity. The determination of effect for Section 106 would be no adverse effect. Beneficial impact — maintenance and preservation of a site(s). The determination of effect for Section 106 would be no adverse effect.

- *moderate:* Adverse impact — disturbance of a site(s) results in loss of integrity. The determination of effect for Section 106 would be adverse effect. A memorandum of agreement is executed among the NPS and applicable state or tribal historic preservation officer and, if necessary, the Advisory Council on Historic Preservation in accordance with 36 CFR 800.6(b). Measures identified in the memorandum of agreement to minimize or mitigate adverse impacts reduce the intensity of impact under NEPA from major to moderate. Beneficial impact — stabilization of a site(s). The determination of effect for Section 106 would be no adverse effect.

- *major*: Adverse impact — disturbance of a site(s) results in loss of integrity. The determination of effect for Section 106 would be adverse effect. Measures to minimize or mitigate adverse impacts cannot be agreed upon and the NPS and applicable state or tribal historic preservation officer and/or Advisory Council are unable to negotiate and execute a memorandum of agreement in accordance with 36 CFR 800.6(b). Beneficial impact — active intervention to preserve a site(s). The determination of effect for Section 106 would be no adverse effect.

Duration: Short-term – Effects lasting for the duration of the construction activities (less than 1 year); Long-term – Effects lasting longer than the duration of the construction (longer than 1 year).

ALTERNATIVE A – NO-ACTION ALTERNATIVE

Under the No-Action Alternative, no ground-disturbing activities would take place outside the footprint of the Rock Creek and Potomac Parkway or the Thompson Boat Center. Therefore, no impact to archeological resources would occur.

Cumulative Effects. Because there are no impacts to archeological resources associated with the No-Action Alternative, the No-Action Alternative would not contribute any increment to cumulative effects.

Conclusion. The No-Action Alternative would not involve any ground disturbance; therefore, no impact to archeological resources would occur. The No-Action Alternative would not contribute any increment to cumulative effects.

ALTERNATIVE B – PARKWAY REHABILITATION WITH TRAIL REALIGNMENT (PREFERRED ALTERNATIVE)

Parkway Rehabilitation

Under Alternative B, the parkway would be milled and overlaid, sections with a concrete base would be repaired as necessary, and ramps to K Street and Pennsylvania Avenue would be replaced. The District of Columbia has requested new drop inlets be constructed along the parkway lane to handle the combined stormwater and sewer flows. Because there would be a high probability of additional undisturbed prehistoric and historic archeological resources within Rock Creek Park, impacts from implementing Alternative B on archeological sites in the park are unknown. However, due to previous disturbances associated with construction of the Rock Creek and Potomac Parkway, there would be low potential for intact subsurface archeological resources. In the area of the two prehistoric archeological sites, any construction would take place on the parkway in areas of previous disturbance. Therefore, these improvements would not have an impact on archeological resources.

Realignment of the Foot and Bike Trail

Realigning the trail, removing the outcropping of rocks, adding new guardrails, adding rumble strips, and replacing the stone curb would not have an impact on archeological resources because the construction of the Rock Creek and Potomac Parkway has altered the original landscape in this area and any construction would take place in areas of previous disturbance. In addition, this section of the parkway is not located in the area of the two prehistoric archeological sites. Therefore, no potential for intact subsurface archeological resources exists.

Thompson Boat House Parking Area Rehabilitation

Under this alternative, the parking area, bridge and access road at the Thompson Boat Center would be rehabilitated. The existing parking area and entrance to the boat house would be milled and overlaid, and the bridge deck, curbs and sidewalk would be patched, as necessary. Furthermore, the District of Columbia has requested new drop inlets be constructed at the intersection of the Virginia Avenue/Rock Creek and Potomac Parkway and the Thompson Boat Center parking area to handle the combined stormwater and sewer flows. The construction of

drop inlets might have the potential to impact intact archeological resources due to the depth of excavation required for the drop inlets and their close proximity to two prehistoric archeological sites. However, an approved National Park Service archeologist would monitor the site during ground disturbance. In the event that deposits or features are discovered during this process, work would be halted until finds can be documented, their significance assessed, and appropriate mitigation strategies developed in consultation with the DC Historic Preservation Office. If necessary, a Memorandum of Agreement would be developed.

Because the National Park Service would mitigate to avoid any adverse effects to archeological resources no major adverse impacts would occur.

Cumulative Effects. Because there are no impacts to archeological resources associated with Alternative B, Alternative B would not contribute any increment to cumulative effects.

Conclusion. The National Park Service would mitigate to avoid any major adverse impacts to archeological resources associated with the construction of new drop inlets; therefore, no impact to archeological resources would occur. Mitigation strategies would be developed in consultation with the DC Historic Preservation Officer and, if necessary, a Memorandum of Agreement would be developed. Alternative B would not contribute any increment to cumulative effects.

Because there would be no major, adverse impacts to resources or values whose conservation are (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

Section 106 Summary. In accordance with Section 106 of the National Historic Preservation Act, implementation of Alternative B would have *no adverse effect* on the archeological resources. No major adverse impact to archeological resources would occur because the National Park Service would mitigate to avoid any major adverse impacts to archeological resources associated with the construction of new drop inlets. Mitigation strategies would be developed in consultation with the DC Historic Preservation Officer and if necessary, a Memorandum of Agreement would be developed. In the event that human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered during the survey or during construction, provisions outlined in the Native American Graves Protection and Repatriation Act (25 USC 3002) of 1990 would be followed. All human remains, funerary objects, sacred objects, or objects of cultural patrimony would be left in place until the culturally affiliated tribe(s) was consulted and an appropriate mitigation or recovery strategy developed.

ALTERNATIVE C – PARKWAY REHABILITATION WITH ROADWAY REALIGNMENT

The impacts under Alternative C would be the same as described under Alternative B.

Cumulative Effects. Cumulative effects under Alternative C would be similar to those described under Alternative B.

Conclusion. The National Park Service would mitigate to avoid any major adverse impacts to archeological resources associated with the construction of new drop inlets; therefore, no major adverse impact to archeological resources would occur. Mitigation strategies would be developed in consultation with the DC Historic Preservation Officer and, if necessary, a Memorandum of Agreement would be developed. Alternative C would not contribute any increment to cumulative effects.

Because there would be no major, adverse impacts to resources or values whose conservation are (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

Section 106 Summary. In accordance with Section 106 of the National Historic Preservation Act, implementation of Alternative C would have *no adverse effect* on the archeological resources. No major adverse impact to archeological resources would occur because the National Park Service would mitigate to avoid any major adverse impacts to archeological resources associated with the construction of new drop inlets. Mitigation strategies would be developed in consultation with the DC Historic Preservation Officer and if necessary, a Memorandum of Agreement would be developed. In the event that human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered during the survey or during construction, provisions outlined in the Native American Graves Protection and Repatriation Act (25 USC 3002) of 1990 would be followed. All human remains, funerary objects, sacred objects, or objects of cultural patrimony would be left in place until the culturally affiliated tribe(s) was consulted and an appropriate mitigation or recovery strategy developed.

IMPACTS ON HEALTH AND SAFETY

DEFINITION OF INTENSITY LEVELS

Analyses of the potential intensity of impacts on health and safety were derived from the available information on the parkway, and the professional judgment of the park staff. The thresholds of change for the intensity of impacts on health and safety are defined as follows:

- *negligible*: Health and safety would not be affected, or the effects would be at low levels of detection and would not have an appreciable effect on health or safety.

- *minor:* The effect would be detectable, but would not have an appreciable effect on health and safety. If mitigation was needed, it would be relatively simple and would likely be successful.

- *moderate:* The effects would be readily apparent and would result in substantial, noticeable effects to health and safety on a local scale. Mitigation measures would probably be necessary and would likely be successful.

- *major:* The effects would be readily apparent and would result in substantial, noticeable effects to health and safety on a regional scale. Extensive mitigation measures would be needed and their success would not be guaranteed.

Duration: Short-term – Effects lasting for the duration of the construction activities (less than 1 year); Long-term – Effects lasting longer than the duration of the construction (longer than 1 year).

ALTERNATIVE A - NO-ACTION ALTERNATIVE

Under the No-Action Alternative, the National Park Service would continue management actions that would include minimum spot repairs to maintain the parkway and Thompson Boat Center parking area, access road, and bridge. A comprehensive milling and resurfacing program for the parkway would not be conducted. Neither the foot and bike trail nor the parkway would be realigned to separate the trail users from the traffic on the parkway. The parking surface at the Boat Center would not be milled and overlaid. Motorists and trail users would continue to be at risk because of the close alignment of the trail to the traffic on the southbound lanes of the parkway. In addition, the parkway pavement and the parking lot, bridge and access road at the Thompson Boat Center would continue to deteriorate, causing a potential hazard for motorists and boat house users. The combination of trail location and pavement and bridge deterioration would have a moderate, long-term, adverse impact on health and safety.

Cumulative Effects. Under the No-Action Alternative the rehabilitation of Rock Creek and Potomac Parkway and the Thompson Boat Center parking area would not occur. Planned future road improvements such as the Kennedy Center Improvements and the DC Department of Public Works Bridge Rehabilitation, rehabilitation of Rock Creek and Potomac Parkway from P Street, NW to the Maryland State line, and the East-West Travel Study may beneficially impact health and safety. The No-Action Alternative would not contribute to these beneficial impacts; therefore, no cumulative effects would occur.

Conclusion. Under the No-Action Alternative, impacts would be moderate, long-term, and adverse because the trail would remain close to the roadway without any protective barrier and the deteriorating pavement and bridge conditions would eventually cause road hazards to motorists and boat house users. The No-Action Alternative would not contribute to the beneficial impacts of other proposed projects; therefore, no cumulative effects would occur.

ALTERNATIVE B – PARKWAY REHABILITATION WITH TRAIL REALIGNMENT (PREFERRED ALTERNATIVE)

Parkway Rehabilitation

Under Alternative B, the parkway would be milled and overlaid, sections with concrete base would be repaired as necessary, and ramps to K Street and Pennsylvania Avenue would be replaced. These improvements would have a moderate, long-term, beneficial impact on health and safety by improving road conditions for motorists.

The steel backed timber guardrails that would be placed between the parkway and the trail would meet current AASHTO standards. In addition, rumble strips would be placed along the center

line of the roadway throughout the entire length of the project. These improvements would have a moderate, long-term, beneficial impact on health and safety of motorists traveling on the parkway by reducing the potential for vehicles to leave the roadway or cross into oncoming traffic.

Mitigation measures such as restrictions on road closures during peak periods, and vehicular traffic controls would be implemented to minimize the risk to motorists during construction. Signage and barriers would be used to protect construction workers from traffic during construction. With this mitigation, the potential risk of safety related incidents would be low. As a result, the proposed alternative with mitigation would have a minor, short-term, adverse impact on health and safety during construction.

Realignment of the Foot and Bike Trail

The trail realignment would allow the National Park Service to spatially and physically separate trail users from southbound traffic on the Rock Creek and Potomac Parkway. The separation of the trail from the road and installation of the guardrails would have a moderate, long-term, beneficial impact on safety by reducing the risk of accidents between trail users and motorists.

Figure 13: Rose Park Trail

During construction, the portion of the trail from approximately K Street to P Street would be closed for approximately two months. Another trail (the Rose Park Trail) would be accessed at the M Street and P Street overpasses, and it would be parallel to the existing NPS portion of the foot and bike trail (see Figure 13). Trail users could use the Rose Park Trail while the existing trail is closed during construction (approximately two months). Rose Park Trail can be accessed from both P and M Streets. Barriers would be installed with warning/closure signs to minimize the risk to trail users during construction. With this mitigation, the potential risk of safety related incidents would be low. As a result, the proposed alternative with mitigation would have a minor, short-term, adverse impact on health and safety during construction and a moderate, long-term, beneficial impact on health and safety.

Thompson Boat Center Parking Area Rehabilitation

Under Alternative B, the parking area, bridge and access road at the Thompson Boat Center would be rehabilitated. The existing parking area and entrance to the boat house would be milled and overlaid, and the bridge deck, curbs and sidewalk would be patched, as necessary. In addition, the bridge deck would be sealed. These changes would increase visitor safety at the boat house by improving the parking lot, access road, and bridge surfaces. Therefore, a moderate, long-term, beneficial impact on health and safety would occur.

Cumulative Effects. Kennedy Center access improvements would be completed at the same time as Alternative B. Therefore, there would be a minor, short-term, adverse cumulative impact on health and safety because parkway and Kennedy Center users would have to navigate around construction in the area. The improvements to the Rock Creek and Potomac Parkway from P Street, NW to the Maryland State line to include Beach Drive and the DC Department of Public Works Bridge Rehabilitations would not add to these short-term, adverse cumulative effects because Alternative B would not occur at the same time.

The improvements to the Rock Creek and Potomac Parkway from P Street, NW to the Maryland State line and the DC Department of Public Works Bridge Rehabilitations along with Alternative B would have a moderate, long-term, beneficial impact on health and safety because these projects would cumulatively improve safety for users of the parkway and the foot and bike trail. The Georgetown Waterfront Park would not impact health and safety; therefore, no cumulative effect would occur.

Conclusion. Implementation of Alternative B would have moderate, long-term, beneficial impacts on health and safety because of the numerous components designed to improve the safety of the trail, parkway, and Thompson Boat Center parking area. Minor, short-term, adverse impacts would result during construction from temporary trail detours, rerouting of vehicular traffic, and nearby construction activities. Mitigation measures would minimize short-term impacts. Minor, short-term, adverse cumulative effects would occur during construction. A moderate, long-term, beneficial cumulative impact would occur.

Because there would be no major adverse impact to resources or values whose conservation are: (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

ALTERNATIVE C – PARKWAY REHABILITATION WITH ROADWAY REALIGNMENT

Parkway Rehabilitation

Under Alternative C, improvements to the condition of the parkway and the addition of features such as the steel backed timber guardrails and rumble strips would have the same moderate, long-term beneficial impacts as those described under Alternative B.

Mitigation measures for Alternative C would be the same as those described under Alternative B.

Realignment of the Parkway

The new road alignment would allow the National Park Service to spatially and physically separate trail users from southbound traffic on the Rock Creek and Potomac Parkway. The separation of the trail from the road and installation of the guardrails would have a moderate, long-term, beneficial impact on safety by reducing the risk of accidents between trail users and motorists.

However, relocating the roadway toward Rock Creek would reduce the radius of the curve just south of P Street, creating a sharper curve for motorists to navigate (See Figure 14). This change would have a minor, long-term adverse impact on safety of motorists traveling the parkway.

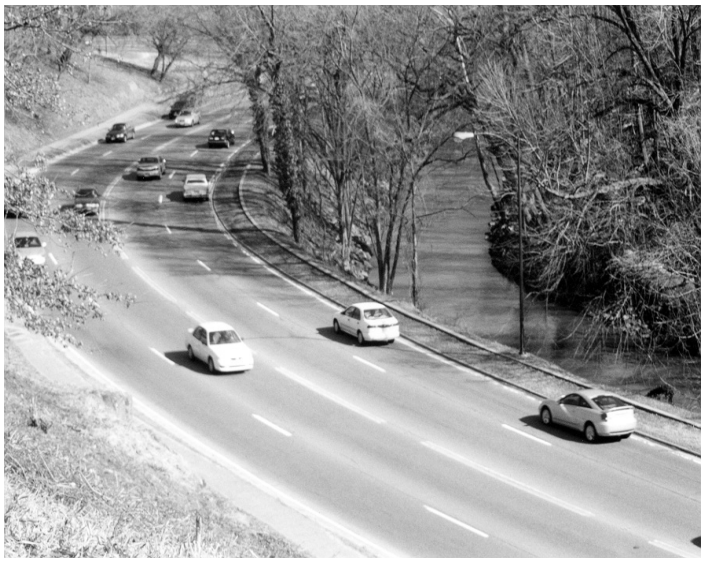

Figure 14: Existing Curve South of P Street, N.W.

Mitigation measures such as restrictions on road closures during peak periods, and vehicular traffic control measures would be implemented to minimize the risk to motorist and trail users during construction. With this mitigation, the potential risk of safety related incidents would be low. Alternative C with mitigation would have a minor, short-term, adverse impact on health and safety during construction, and a minor or moderate, long-term, beneficial impact to motorists and trail users, respectively.

Thompson Boat Center Parking Area Rehabilitation

Impacts for Alternative C would be the same as those proposed for Alternative B.

Cumulative Effects. Cumulative effects for Alternative C would be the same as those proposed for Alternative B.

Conclusion. Implementation of Alternative C would have a minor to moderate, long-term, beneficial impact on health and safety because of the numerous components designed to improve the safety of the parkway and the Thompson Boat Center bridge, access road, and parking lot improvements. However, minor, long-term, adverse impacts would occur from relocating the roadway toward Rock Creek by reducing the radius of the curve just south of P Street, creating a sharper curve for motorists to navigate. Minor, short-term, impacts could result during construction from temporary trail detours, rerouting of vehicular traffic, and nearby construction activities. Minor, short-term, adverse cumulative effects would occur during construction. Mitigation measures would minimize short-term impacts. A moderate, beneficial, long-term, cumulative impact would occur.

Because there would be no major adverse impact to resources or values whose conservation are: (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

IMPACTS ON VEGETATION

DEFINITION OF INTENSITY LEVELS

Available information on vegetation and vegetative communities potentially impacted by the proposed alternatives was compiled. To the extent possible, location of sensitive vegetation species, populations, and communities were identified and avoided. Predictions about short-term and long-term impacts to vegetation were based on previous experience of projects of similar scope and vegetative characteristics. Analyses of the potential intensity of impacts on vegetation were derived from the available information on the parkway and the professional judgment of the park staff. The thresholds of change for the intensity of impacts on vegetation are defined as follows:

- *negligible*: Native vegetation would not be affected, or some individual native plants would be affected as a result of the alternative, but there would be no effect on native species populations. The effects would be on a small scale and no species of special concern would be affected.

- *minor:* The alternative would affect some individual native plants and would also affect a relatively small portion of that species population. Mitigation to offset adverse effects, including special measures to avoid affecting species of concern, would be required and would be effective.

- *moderate:* The alternative would affect some individual native plants and would also affect a sizeable segment of the species population and over a relatively large area. Mitigation to offset the adverse effects could be extensive, but would likely be successful. Some species of special concern could be affected.

- *major:* The alternative would have a considerable effect on native plant populations, including species of special concerns, and could affect a relatively large area in and outside of the park. Mitigation measures to offset the adverse effects would be required, extensive, and success of the mitigation measures would not be guaranteed.

Duration: Short-term – Effects lasting less than 3 years; Long-term – Effects lasting longer than 3 years.

ALTERNATIVE A - NO-ACTION ALTERNATIVE

Under the No-Action Alternative, the National Park Service would continue management actions that would include minor repairs to the parkway, Thompson Boat Center parking area, and the foot and bike trail. The foot and bike trail would remain near the shoulder of the parkway and would not be realigned away from the roadway. Vegetation in this area of the Rock Creek and Potomac Parkway would not be impacted by the No-Action Alternative as any minor repairs would be in the existing footprint of the parkway. However, in the are of the Thompson Boat Center Parking Area, visitors have worn deep trails by cutting across the grass. The grass is worn away and the tails have become deeply impacted causing a minor to moderate, long-term, adverse impact to vegetation in this area.

Cumulative Effects. Other past, present, or reasonably foreseeable future actions such as construction activities associated with the Kennedy Center access improvements, rehabilitation of the parkway from P Street to the Maryland State line, construction of a new Swedish Embassy, and the Georgetown Waterfront Park may have the potential to have a long-term, adverse impact from the removal of existing vegetation. The No-Action Alternative, when added to these actions, would contribute a noticeable increment to the minor, long-term, adverse cumulative effects.

Conclusion. Vegetation in this area of the foot and bike trail would not be impacted by the No-Action Alternative as any minor repairs would be in the existing footprint of the parkway. In the area of the Thompson Boat Center parking, visitors have worn deep trails by cutting across the grass causing minor to moderate, long-term, adverse impacts to vegetation. The No-Action Alternative, when added to the actions proposed under the cumulative affect scenario, would contribute a noticeable increment to the minor, long-term, adverse cumulative effects.

ALTERNATIVE B – PARKWAY REHABILITATION WITH TRAIL REALIGNMENT (PREFERRED ALTERNATIVE)

Parkway Rehabilitation

Under Alternative B, rehabilitation of the parkway would impact the vegetation of Rock Creek Park and the Rock Creek and Potomac Parkway. Rehabilitation efforts would only be conducted on the existing footprint of the parkway except for the addition of a 1.5-foot wide asphalt strip along the guardrail for vegetation control and from the relocation of the bike trail. The asphalt strip would require the removal of some grassed areas. This impact would be negligible, long-term, and adverse as no species of special concern would be impacted nor would there be an affect on native populations.

Realignment of the Foot and Bike Trail

The realignment of the foot and bike trail require the removal of some grassed areas and may require the removal and replacement of 1 to 2 small diameter trees at the P Street ramp. Non-native vegetation would be replaced with native vegetation except the narcissus bulbs near the rock outcrop that would be replaced in kind (the narcissus bulbs were planted in the 1960s as part of the city-wide Beautification effort and are considered part of the historic planting associated with the parkway). This impact would be negligible, short-term, and adverse.

Thompson Boat Center Parking Area Rehabilitation

Under Alternative B, the parking area rehabilitation that includes removing and replacing the concrete sidewalk would result in fewer cut corners and visitors walking off of the trail on to the grass creating a minor to moderate, long-term, beneficial impact to the vegetation. The rehabilitation of the parking area would not impact the vegetation at the Thompson Boat Center as rehabilitation efforts would be conducted with the existing footprint of the parking area and entrance road to the Thompson Boat Center.

Cumulative Effects. Other past, present, or reasonably foreseeable future actions such as construction activities associated with the Kennedy Center access improvements, rehabilitation

of the parkway from P Street to the Maryland State line, construction of a new Swedish Embassy, and the Georgetown Waterfront Park may have the potential to have a long-term, adverse impact from the removal of existing vegetation. Alternative B, when added to these actions would contribute a noticeable and beneficial increment to the minor, long-term, and adverse cumulative effects.

Conclusion. Alternative B would create a negligible, long-term, adverse impact to vegetation from the removal of some grassed areas and the removal and replacement of 1 to 2 small diameter trees. Non-native vegetation would be replaced with native vegetation except the narcissus bulbs near the rock outcrop that would be replaced in kind. Minor to moderate, long-term, beneficial impacts would result from removing and replacing the concrete sidewalk. There would be the potential for minor, long-term, adverse cumulative effects.

Because there would be no major, adverse impacts to resources or values whose conservation are (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

ALTERNATIVE C – PARKWAY REHABILITATION WITH ROADWAY REALIGNMENT

Parkway Rehabilitation

Impacts under Alternative C would be similar to those impacts described under Alternative B.

Realignment of the Parkway

The realignment of the parkway would require the removal of some grassed areas, but would not require the removal of trees or shrubs. This impact would be minor, long-term, and adverse as the grassed areas would not be replaced.

Thompson Boat Center Parking Area Rehabilitation

Impacts under Alternative C would be similar to those impacts described under Alternative B.

Cumulative Effects. Cumulative effects for Alternative C would be the same as those proposed for Alternative B.

Conclusion. Alternative C would create a minor, long-term, adverse impact to vegetation from the removal of some grassed areas. There would be the potential for minor, long-term, adverse cumulative effects.

Because there would be no major, adverse impacts to resources or values whose conservation are (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

IMPACTS ON TRANSPORTATION/TRAFFIC

DEFINITION OF INTENSITY LEVELS

Analyses of the potential intensity of impacts on transportation/traffic were derived from the available information on the Rock Creek and Potomac Parkway and the professional judgment of the park staff and United States Park Police. The thresholds of change for the intensity of impacts on transportation/traffic are defined as follows:

- *negligible*: The impact would be a change that would not be perceptible or would be barely perceptible by most motorists.

- *minor:* The impact would have an adverse or beneficial change to levels of services or commute times. The effect would be noticeable, but would result in little inconvenience or benefit to commuters.

- *moderate:* The impact would affect the commute of a large number of motorists and would result in a noticeable change in commute time, convenience or benefit, and level of service.

- *major:* The impact has a substantial effect on the commute of a large number of motorists, and would be highly noticeable and have a considerable effect on commute times to the extent that the use of the parkway is undesirable to motorists.

Duration: Short-term – Effects lasting for the duration of the construction activities (less than 1 year); Long-term – Effects lasting longer than the duration of the construction (longer than 1 year).

ALTERNATIVE A - NO-ACTION ALTERNATIVE

Under the No-Action Alternative, the National Park Service would continue the current management operations of the parkway. The National Park Service would conduct minor "spot" repairs on the parkway between Virginia Avenue and P Street. A comprehensive rehabilitation of the parkway road surface and associated features would not be conducted at this time. The Thompson Boat Center would also receive only "spot" repairs to the parking surface. The foot and bike trail would remain in close proximity to the northbound lanes of the parkway and the parkway or the trail would not be relocated to spatially separate trail users from vehicular traffic. transportation/traffic would continue to be adversely impacted because of deteriorating conditions of the road pavement, the close proximity of the foot and bike trail, and the existing poor conditions of the parking area at the Thompson Boat Center.

The poor roadway conditions reduce the quality of the drive for motorists and this condition would expect to worsen over time as the roadway continues to deteriorate. The same would be true for visitors using the Thompson Boat Center parking area. Long-term, the National Park Service would be forced to close sections of the parkway and boathouse parking area. At some point in the near future, the National Park Service would have to mill and overlay the road and parking area at the Thompson Boat Center. The longer the maintenance is deferred the greater the likelihood that more of the underlying concrete base would have to be removed and replaced.

These closures and poor road conditions would impact traffic flows on the parkway and would result in noticeable delays. As a result, the No-Action Alternative would have a moderate, long-term, adverse impact on transportation/traffic.

Cumulative Effects. Other past, present, or reasonably foreseeable future actions such as, construction activities associated with the Kennedy Center access improvements, DC Department Public Works bridge rehabilitation projects, rehabilitation of the parkway from P Street to the Maryland State line, and the Georgetown Waterfront Park would have short-term adverse impacts on the parkway operation and traffic flows. The New Swedish Embassy and the Georgetown Waterfront Park would have long-term impacts from added vehicle trips to and from the embassy and the park, but these impacts would be expected to be negligible because the amount of trips generated would not affect existing traffic conditions. The No-Action Alternative would contribute a noticeable increment to the adverse impact and collectively, the cumulative effect to transportation/traffic would be adverse, negligible, short-term, and long-term.

Conclusion. Under the No-Action Alternative, moderate, long-term, adverse impacts to transportation/traffic would occur because the conditions along the parkway would continue to deteriorate to the point where traffic flows and parking at the Thompson Boat Center would be affected by the poor pavement conditions and the eventual closure of the road to perform a comprehensive milling and overlaying program. A negligible, short-term, adverse cumulative effect would occur.

ALTERNATIVE B – PARKWAY REHABILITATION WITH TRAIL REALIGNMENT (PREFERRED ALTERNATIVE)

Parkway Rehabilitation

The milling and overlaying of the Rock Creek and Potomac Parkway would improve the roadway surface. To the extent necessary, the concrete base would also be repaired. The concrete on the bridge decks would be repaired as necessary. Guardrails would be replaced with steel backed timbers. Minor drainage improvements would occur. All these actions would improve transportation/traffic on the parkway through extending the useful life of the transportation infrastructure, increasing safety, and improving driving conditions. Therefore, a moderate, long-term, beneficial impact would occur on transportation/traffic.

During construction, a portion of the parkway, in the project area, would have to be temporarily closed to visitors. To minimize these impacts, a comprehensive traffic control plan would be developed before construction and implemented during construction. This plan would specify certain work requirements to the contractor. For instance, there would be no night time construction and only two lanes of the parkway would be closed (one in each direction) for the milling and overlay of the parkway and the ramp terminals. In addition, no nighttime construction would occur. Other aspects of the traffic control plan would include reducing the posted speed to 25 miles per hour during construction and public notification of construction of activities and potential delays. The National Park Service would make public media releases two weeks prior to construction, post signs within the project limits two weeks in advance, use Variable Message Signs for the first 48 hours of each stage of construction, and notify the Traffic

Service Bureaus of any significant changes to traffic operations and flow. With these provisions during construction, the short-term, adverse impact on transportation/traffic would be moderate.

Realignment of the Foot and Bike Trail

The realignment of a segment of the foot and bike trail would have a negligible, long-term ,beneficial impact on the transportation system. With the installation of a steel-backed guard rail between the trail and traffic there would be a reduction in vehicles driving over the curb onto the grass median or into trail users.

The National Park Service would close the foot and bike trail during the realignment of the trail for safety reasons. During this time, the National Park Service would notify visitors of trail closures through public media releases two weeks prior to construction, post signs within the project area two weeks in advance. With notification and signage, the short-term, adverse impact during the trail closures would be moderate.

Thompson Boat Center Parking Area Rehabilitation

Under Alternative B, the National Park Service would mill and overlay the existing parking area and entrance road. Removal of the existing concrete would be performed as necessary. The National Park Service would reconstruct the parking area within its original footprint. Also, the bridge deck curbs and sidewalks would be repaired as necessary. All these actions would improve access and parking at the Thompson Boat Center through extending the useful life of the infrastructure, increasing safety, and improving parking conditions. A moderate, long-term, beneficial impact would occur on transportation/traffic because of the entrance road, parking area and bridge improvements.

The access road and the bridge to the Thompson Boat Center would only be closed for a period up to 30 days between November 1 and November 30 to minimize impacts to the concessions operations. The rehabilitation of the parking area would be performed in two phases because the access road must remain open and parking permitted in half of the parking lot to minimize impacts to use of the area. Based on the parking lot capacity analysis in the 1997 Transportation Study, closure of half of the parking area would be conducted during non-peak visitation periods when the parking lots are not full. Therefore, Alternative B would have negligible, adverse impacts on available parking at the Thompson Boat Center. The parking lot rarely exceeds more than 50 percent capacity during non-peak periods (Peccia, 1997).

Cumulative Effects. Other past, present, or reasonably foreseeable future actions such as, the Kennedy Center access improvements, DC Department of Public Works bridge rehabilitation projects and rehabilitation of the parkway from P Street to the Maryland State line would have long-term, beneficial impacts on the regional transportation system. These beneficial impacts would result from improvements to the infrastructure, traffic flows, and capacity. Long-term, Alternative B would contribute a negligible, beneficial impact and collectively, the cumulative effect to transportation/traffic would be minor, long-term, and beneficial. The New Swedish Embassy and the Georgetown Waterfront Park would have long-term adverse impacts from added vehicle trips to and from the embassy and the park, but these impacts would be expected

to be minor because the amount of trips generated would not create a noticeable change in commute time.

Short-term, there is the potential for adverse, cumulative impacts on transportation/traffic if the aforementioned projects were to be implemented at the same time. Specifically, the Kennedy Center access improvements would require extensive traffic control measures during construction. Alternative B also requires road closures and other traffic control measures. Together, these projects could have a major, short-term, adverse impact on traffic flows and operations. The Federal Highway Administration and National Park Service routinely coordinate construction activities to minimize the short-term impacts of multiple project construction on transportation/traffic. With proper coordination of construction activities and traffic control measures, the adverse cumulative effect would be moderate, short-term, and adverse.

Conclusion. Overall, implementation of Alternative B would have a moderate, long-term, beneficial impact on transportation/traffic because of the infrastructure improvements. A moderate, short-term, adverse impact would occur to trail use and parkway use because of necessary closures during construction. Impacts would be mitigated, to the degree possible through public notifications and work restrictions during peak use periods. A minor, long-term, beneficial cumulative effect would occur. With proper coordination of construction activities, the short-term, adverse cumulative effect would be minor.

Because there would be no major, adverse impacts to resources or values whose conservation are (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

ALTERNATIVE C – PARKWAY REHABILITATION WITH ROADWAY REALIGNMENT

Parkway Rehabilitation

The impacts under Alternative C would be the same as described under Alternative B.

Realignment of the Parkway

The realignment of the parkway would have no long-term effect on transportation/traffic in that operations, and roadway capacity would not change. Short-term, the realignment of the parkway would require portions of the parkway to be closed for a greater period of time for construction than described under Alternative B. The closure of portions of the parkway would have moderate, long-term, adverse impacts on transportation/traffic. To minimize these impacts, a comprehensive traffic control plan would be developed before construction and implemented during construction. This plan would specify certain work requirements to the contractor as discussed previously. Relocation of the roadway toward Rock Creek would reduce the radius of the curve just south of P Street, creating a sharper curve for motorists to navigate. This change would require a reduction in speed to maneuver through this curve creating a negligible, long-term, adverse impact.

Thompson Boat Center Parking Area Rehabilitation

The impacts under Alternative C would be the same as described under Alternative B.

Cumulative Effects. Cumulative effects under Alternative C would be the same as those described under Alternative B.

Conclusion. Overall, implementation of Alternative C would have a moderate, long-term, beneficial impact on transportation/traffic because of the infrastructure improvements. A moderate, short-term, adverse impact would occur to the parkway use because of necessary closures during construction. Impacts would be mitigated through public notifications and work restrictions during peak use period. A negligible, long-term, adverse impact would result from a reduction speed to maneuver through the curve in the parkway south of P Street. A minor, long-term, beneficial cumulative effect would occur. With proper coordination of construction activities and specifically traffic control measures, the short-term, adverse cumulative effect would be minor.

Because there would be no major, adverse impacts to resources or values whose conservation are (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Rock Creek and Potomac Parkway; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document, there would be no impairment of the park's resources or values.

IMPACTS ON VISITOR EXPERIENCE AND USE

DEFINITION OF INTENSITY LEVELS

Analyses of the potential intensity of impacts on visitor experience and use were derived from the professional judgment of the park staff and their understanding of visitation patterns, combined with the assessment of what activities are currently available to visitors at the Rock Creek Park and more specifically for this project, the portion of the Rock Creek and Potomac Parkway from P Street to Virginia Avenue. The impacts on the visitor's ability to experience a full range of park resources were analyzed by examining resources and objectives presented in the park's general management plan. The potential changes identified in the proposed action alternatives for visitor experience and use were evaluated by identifying projected increases or decreases in recreational trail use (i.e., walking, in-line skating, and bicycling), automobile use, and other visitor uses, and determining whether or how these projected changes would affect the desired visitor experience and to what degree and for how long. The thresholds of change for the intensity of impacts on visitor experience and use are defined as follows:

- *negligible*: The impact would be a change that would not be perceptible or would be barely perceptible by most visitors.

- *minor*: The impact would change a few visitors' experiences, which would be noticeable, but would result in little distraction or improvements in the quality of the experience;

- *moderate:* The impact would change a large number of visitors' experiences and would result in a noticeable decrease or improvement in the quality of the experience. This would be indicated by a change in frustration level or inconvenience for a length of time.

- *major:* The impact has a substantial improvement in many visitors' experiences or a severe drop in the quality of many visitors' experiences, such as the addition or elimination of a recreational opportunity or a permanent change to an area. The impact would preclude future generations of some visitors from enjoying the park resources.

Duration: Short-term – Effects lasting for the duration of the construction activities (less than 1 year); Long-term – Effects lasting longer than the duration of the construction (longer than 1 year).

ALTERNATIVE A - NO-ACTION ALTERNATIVE

Under the No-Action Alternative, the National Park Service would continue management actions that would include minor repairs to the parkway, Thompson Boat Center parking area, and the foot and bike trail. The foot and bike trail would remain near the shoulder of the parkway and would not be realigned away from the roadway. The visitor experience would continue to be affected by poor pavement conditions and the trail's close proximity to the roadway to southbound traffic. Currently, pedestrians, in-line skaters, and bicyclists must be cautious of vehicles on the southbound lane of the parkway because it is about 3 feet from the trail. On most other parts of the trail, trail users have a much more enjoyable user experience because the trail is much farther from the road. The same concern is true for motorists traveling southbound on the parkway. Motorists have to be aware of the trail's close location to the roadway. Implementation of the No-Action Alternative would continue to have a minor, long-term, adverse impact on visitor experience and use because of the deteriorating conditions of the pavement, and the trail's close proximity to the roadway, and lack of a protective barrier.

Cumulative Effects. Other nearby transportation projects such as the Kennedy Center access improvements and rehabilitation of the parkway from P Street to the Maryland State line would have a short-term, adverse impact on the visitor experience. These projects would affect the driving experience, access, and trail use during construction activities. The No-Action Alternative would contribute a small increment to the adverse impact and collectively, the cumulative effect on transportation/traffic would be minor, short-term, and adverse. The Georgetown Waterfront Park would create beneficial impacts to visitor experience and use. The No-Action Alternative would not add to these beneficial impacts; therefore, no beneficial, cumulative effects would occur.

Conclusion. Under the No-Action Alternative, the parkway pavement would continue to worsen over time and reduce visitor's positive experience. The trail would remain in close proximity to vehicles on the parkway, which also has an adverse impact on visitor experience. Overall, implementation of the No-Action Alternative would have a minor, long-term, adverse impact on visitor experience and use. The cumulative effect on visitor experience and use would be minor, short-term, and adverse.

ALTERNATIVE B – PARKWAY REHABILITATION WITH TRAIL REALIGNMENT (PREFERRED ALTERNATIVE)

Parkway Rehabilitation

The milling and overlaying of the parkway would improve the roadway surface and thus enhance visitor's driving experience on the parkway by creating a smoother ride. A minor, long-term, beneficial impact would occur.

Realignment of the Foot and Bike Trail

Realignment of the foot and bike trail would have a minor, long-term, beneficial impact on the visitor experience. The realignment of the trail would further separate trail users from the vehicular traffic on the parkway reducing the interaction of pedestrian and bicycle traffic with vehicle traffic. This improvement would provide improved conditions for trail users.

Visitors would experience an inconvenience from temporary trail detours and roadway lane closures. The impacts would be minimized through the implementation of a detailed traffic control plan and other work requirements specified in the construction contract. Another trail exists outside of Rock Creek Park that parallels this portion of the foot and bike trail. The trail can be accessed near P Street and runs along the top of the ridge by Rose Park. The trail then connects back to the parkway trail after M Street. Overall, a moderate, short-term, adverse impact would occur on the visitor experience and use because of parkway, parking, and trail closures. And the long-term impact would be minor and beneficial.

Thompson Boat Center Parking Area Rehabilitation

Improvements to the access road, parking lot and bridge would have a minor, beneficial impact on visitor experience because of improved site conditions and amenities, which would increase visitor enjoyment. The Thompson Boat Center access road and the bridge over Rock Creek would only be closed for 30 days or less between November 1 and November 30 to minimize impacts to the concessionaire's operations. During the construction of the parking area, the access road would remain open and parking permitted at half of the parking lot. Based on the parking lot capacity analysis in the 1997 Rock Creek transportation study, closure of half of the parking area would be conducted during non-peak visitation periods when use of the parking area is usually below 50 percent occupancy. Therefore, Alternative B would have negligible, short-term adverse impacts on visitor use at the Thompson Boat Center, and negligible, long-term, beneficial impacts.

Cumulative Effects. Other past, present, or reasonably foreseeable future actions such as, the Kennedy Center access improvements, rehabilitation of the parkway from P Street to the Maryland State line, and the Georgetown Waterfront Park would have long-term, beneficial impacts on the visitor experience and use. These beneficial impacts would result from improvements to vehicle and pedestrian access on the parkway and nearby Kennedy Center, and an increased visitor experience from the creation of new trails associated with the Georgetown Waterfront Park. Long-term, Alternative B would contribute a small increment to the beneficial impact and collectively, the cumulative effect on visitor experience and use would be moderate, long-term, and beneficial.

Short-term, there is the potential for adverse, cumulative impacts on visitor experience and use if the aforementioned projects were to be implemented at the same time. Specifically, the Kennedy Center access improvements would require extensive traffic control measures during construction. Alternative B also requires road closures and other traffic control measures. Together, these projects could have a major, short-term, adverse cumulative impact on visitor experience and use. In turn, this would affect the visitor experience and reduce trail and parkway use. The Federal Highway Administration and National Park Service routinely coordinate construction activities to minimize the short-term impacts of multiple construction projects occurring simultaneously. With coordination of construction activities and specifically, traffic control measures, the adverse cumulative effect would be minor and short-term.

Conclusion. Overall, Alternative B would have a moderate, long-term, beneficial impact on the visitor experience because of improvements to the road, trail, and parking infrastructure. These improvements would enhance visitor enjoyment at the park and provide visitors with a safer environment. A moderate, short-term, adverse impact would result from construction activities. Overall, the cumulative effect on visitor experience and use would be moderate, long-term, and beneficial. With coordination of construction activities, the short-term, adverse, cumulative effect would be minor.

ALTERNATIVE C – PARKWAY REHABILITATION WITH ROADWAY REALIGNMENT

Parkway Rehabilitation

The impacts under Alternative C would be the same as described under Alternative B.

Realignment of the Parkway

Realignment of the parkway would have a minor, long-term, beneficial impact on the visitor experience. The realignment of the parkway would spatially separate trail users from the vehicular traffic on the parkway. Trail users would experience an added sense of protection when using the trail segment adjacent to the parkway.

Alternative C would require the parkway to be closed for a longer period for the realignment. Realignment of the parkway would impact more visitors because the parkway accommodates more visitor use than the foot and bike trail. During construction activities, visitor experience and use may be impacted by traffic and health and safety impacts. Visitors would experience an inconvenience from closures. The impacts would be minimized through the implementation of a detailed traffic control plan and other work requirements. Overall, a moderate, short-term, adverse impact would occur on the visitor experience and use because of parkway closures, and a minor, long-term, beneficial impact because of the road realignment.

Thompson Boat Center Parking Area Rehabilitation

The impacts under Alternative C would be the same as described under Alternative B.

Cumulative Effects. Other past, present, or reasonably foreseeable future actions such as, the Kennedy Center access improvements, rehabilitation of the parkway from P Street to the

Maryland State line, and the Georgetown Waterfront Park would have long-term, beneficial impacts on the visitor experience and use. These beneficial impacts would result from improvements to vehicle and pedestrian access on the parkway and nearby Kennedy Center, and an increased visitor experience from the creation of new trails associated with the Georgetown Waterfront Park. Long-term, Alternative B would contribute a small increment to the beneficial impact and collectively, the cumulative effect on visitor experience and use would be minor, long-term, and beneficial.

Short-term, there is the potential for adverse, cumulative impacts on visitor experience and use if the aforementioned projects were to be implemented at the same time. Specifically, the Kennedy Center access improvements would require extensive traffic control measures during construction. Alternative B also requires road closures and other traffic control measures. Together, these projects could have a major, short-term, adverse cumulative impact on visitor experience and use. In turn, this would affect the visitor experience and reduce trail and parkway use. The Federal Highway Administration and National Park Service routinely coordinate construction activities to minimize the short-term impacts of multiple construction projects occurring simultaneously. With coordination of construction activities and specifically, traffic control measures, the adverse cumulative effect would be minor and short-term.

Conclusion. Overall, Alternative C would have a minor, long-term, beneficial impact on the visitor experience because of improvements to the road, trail, and parking infrastructure. These improvements would enhance visitor enjoyment at the park and provide visitors with a safer environment. Moderate, short-term, adverse impact would occur on the visitor experience because of parkway, parking, and trail closures. Overall, the cumulative effect on visitor experience and use would be minor, long-term, and beneficial. With coordination of construction activities, the short-term, adverse, cumulative effect would be minor.

CONSULTATION AND COORDINATION

As part of the planning and analysis, this EA has been prepared to evaluate alternatives and options for accomplishing this work with the least impact to Park resources and Park visitors. The NPS is the lead agency for resource compliance and has prepared this EA in cooperation with the Eastern Federal Lands Highway Division of the Federal Highway Administration.

In accordance with Section 106 of the National Historic Preservation Act of 1966, the Superintendent for Rock Creek Park has submitted a letter to the District of Columbia Historic Preservation Office to initiate consultation. A copy of the letter is provided in Appendix A.

In accordance with Section 7 of the Endangered Species Act of 1973, comments were solicited from the U.S. Fish and Wildlife Service and the National Park Service on known occurrences of rare, threatened, and endangered species within the project area that could be adversely impacted by the proposed alternatives. The National Park Service maintains a list for the District of Columbia, who does not maintain their own list. Copies of these letters can be found in Appendix A.

The Sediment and Storm Water Technical Services Branch of the DC Department of Health – Environmental Health Administration ensures the protection of health, safety, and welfare of the residents of the District of Columbia by managing land disturbing activities to prevent accelerated soil erosion and sediment deposition in the Potomac and Anacostia Rivers and their tributaries. The Branch develops and implements programs in storm water management, erosion and sediment control, and floodplain management in support of the regulation of land disturbing activities. Therefore, before any land disturbing activities can occur a Soil Erosion Control Plan and a Stormwater Management Plan would be completed and submitted to this office along with a construction permit application. An erosion and sediment control plan is required for fifty square feet of land disturbance. A storm water management plan is required for five thousand square feet of land disturbance. For this project, the FHWA – Eastern Federal Lands Highway Division would obtain a construction permit that would include a Soil Erosion Control Plan prior to any land disturbance.

This Environmental Assessment would be distributed for public and agency review with a comment period of at least 30 days. The National Park Service would consider the comments received during the comment period prior to determining the final decision document that would be sent to the National Capital Region Director for approval and signature.

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LIST OF PREPARERS

U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Denver Service Center
12795 West Alameda Parkway
P.O. Box 25287
Denver, CO 80225-0287

Hugh Duffy, Project Manager
David Hayes, Cultural Resource Management
Steven Hoffman, Natural Resource Management
Karen Arey-Johnson, Project Specialist

Rock Creek Park and the Rock Creek and Potomac Parkway
3545 Williamsburg Lane, NW
Washington, DC 20008-1207

Adrienne Coleman, Superintendent
Cynthia Cox, Assistant Superintendent
O.B. Goodman, Facility Manager
Laura Illige, Chief, Resource Management and Visitor Services
Haynes Currie, Environmental Protection Specialist
Perry Wheelock, Cultural Resource Manager

National Capital Region
1100 Ohio Drive, SW
Washington, DC 20242

Sally Blumenthal, Environmental Compliance Coordinator
Dave Hammers, Federal Highway Lands Program Coordinator
Patrick Gregerson, Regional Planning Coordinator

GREENHORNE & O'MARA, INC.

9001 Edmonston Road
Greenbelt, MD 20770

Elizabeth Edelen Estes
Project Manager/Environmental Scientist
B.S., Marine Science
University of South Carolina, 1994

Joan Glynn
Senior Environmental Planner
B.A. Communications
University of Maryland, 1991

John Wiser
Environmental Scientist
B.S. Biology
Eckerd College, 1991

Steve Pomeroy
Environmental Scientist
M.S. Wildlife Management, 1968
University of Georgia
B.S. Zoology, 1966
University of Georgia

Robin Griffin
Environmental Scientist
M.S. Environmental Management
Illinois Institute of Technology, 1999
B.S. English Composition
DePauw University, 1992

Julie A. Liptak
Senior Graphic Artist
B.S., Graphic Design
University of Cincinnati, 1976
Assoc. Civil Engineering
Cincinnati Technical College, 1984

HNTB COMPANY

421 7th Street, NW
Washington, DC 20004

Kevin Lewis, AIA

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Personal Communication

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APPENDIX A

Agency Coordination Letters

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401

May 5, 2004

Mr. Steven Pomeroy
Environmental Scientist
Greenhorne & O'Mara, Inc.
9001 Edmonston Rd.
Greenbelt, MD 20770

RE: Rock Creek and Potomac Parkway between Virginia Avenue and P Street and the Thompson Boat Center Parking Area, Washington, DC

Dear Mr. Pomeroy:

This responds to your letter, received January 22, 2004, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened in the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

Except for occasional transient individuals, no proposed or federally listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological Assessment or further Section 7 consultation with the U.S. Fish and Wildlife Service is required. Should project plans change, or should additional information on the distribution of listed or proposed species become available, this determination may be reconsidered.

This response relates only to federally protected threatened or endangered species under our jurisdiction. Limited information is currently available regarding the distribution of other rare species in the District of Columbia. However, the Nature Conservancy and National Park Service (NPS) have initiated an inventory of rare species within the District. For further information on such rare species, you should contact Christina Wright of the DC Natural Heritage Program at (202) 342-1443 ext. 230.

An additional concern of the Service is wetlands protection. Federal and state partners of the Chesapeake Bay Program have adopted an interim goal of no overall net loss of the Basin's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should

be identified, and if alterations of wetlands is proposed, the U.S. Army Corps of Engineers, Baltimore District, should be contacted for permit requirements. They can be reached at (410) 962-3670.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interests in these resources. If you have any questions or need further assistance, please contact Maricela Constantino at (410) 573-4542.

Sincerely,

Mary Ratnaswamy

Mary J. Ratnaswamy, Ph.D.
Program Supervisor, Threatened and Endangered Species

From: POMEROY, Steven
Sent: Wednesday, March 17, 2004 1:57 PM
To: ESTES, Elizabeth
Subject: FW: data request PARK CREEK PARK T&E REQUEST FROM NPS

-----Original Message-----
From: Shawn_Carter@nps.gov [mailto:Shawn_Carter@nps.gov]
Sent: Wednesday, March 17, 2004 1:37 PM
To: spomeroy@g-and-o.com
Subject: data request

Mr. Pomeroy,

This is a response to your data request for the existence of any RTE species between Virginia Avenue and P Street. I could locate no records within the boundaries you describe. Some records exist for Theodore Roosevelt Island, which is adjacent to the area in question. However, none of those records have Federal status.

Sorry for the delay in this reply. Please contact me if you require additional information.

Shawn L. Carter, Ph.D.
Regional Coordinator - Inventory and Monitoring
National Capital Region - National Park Service
4598 MacArthur Blvd., N.W.
Washington, DC 20007
(202) 342-1443 x227
(202) 997-4572 cell
(202) 282-1031 fax
http://www1.nature.nps.gov/im/units/ncrn/index.html
http://www1.nature.nps.gov/protectingrestoring/im/inventoryandmonitoring.htm
http://science.nature.nps.gov/im/monitor

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H4217 (ROCR)

February 24, 2004

Ms. Lisa Burcham
State Historic Preservation Officer
Historic Preservation Office
801 North Capital Street NE, 3rd Floor
Washington D.C. 20002

Reference: Rock Creek Park, PMIS 44964 & 44976

Subject: Compliance with Section 106 of the National Historic Preservation Act and National Environmental Policy Act (NEPA)

Dear Ms. Burcham:

The National Park Service (NPS) is developing plans to rehabilitate asphalt paving between Virginia Avenue and P Street NW, along the Rock Creek Parkway and provide handicap parking and repaving at the Thompson Boat Center.

We have begun the NEPA process for this project and anticipate preparing an environmental assessment. In accordance with 36 CFR 800.8 (c) of the Advisory Council on Historic Preservation's regulations, I am notifying your office in advance of the park's intention to use the NEPA process to meet its obligations under Section 106 of the National Historic Preservation Act.

We look forward to working with your organization, other consulting parties, and the public as we proceed with the environmental planning process for this project. We would be happy to arrange a meeting with you at your convenience to discuss this project. Please contact Cultural Resource Manager Perry Wheelock at 202-895-6011, or David Hayes, Denver Service Center Environmental Specialist at (303) 969-2975 (email david_hayes@nps.gov.)

Sincerely,

/s/ Adrienne A. Coleman

Adrienne A. Coleman
Superintendent, Rock Creek Park

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As the nation's principal conservation agency, the Department of the interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering sound use of our land and water resources; protection our fish, wildlife, and biological diversity; preserving the environmental and cultural values of our national parks and historical places; and providing for the enjoyment of life through outdoor recreation. The department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people by encouraging stewardship and citizen participation in their care. The department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. Administration.

NPS D-121, May 2005

ROCR 345

FINDING OF NO SIGNIFICANT IMPACT

ROCK CREEK AND POTOMAC PARKWAY

ROCK CREEK PARK

REHABILITATION of ROCK CREEK and POTOMAC PARKWAY from VIRGINIA AVENUE to P STREET BRIDGE and the THOMPSON BOAT CENTER

PURPOSE AND NEED

The National Park Service (NPS), in cooperation with the Federal Highway Administration – Eastern Federal Lands Highway Division (FHWA-EFLHD), proposes to rehabilitate Rock Creek and Potomac Parkway from Virginia Avenue to P Street, NW and to rehabilitate the access road, bridge, and parking area of the Thompson Boat Center in Washington, DC. Major project components entail milling and overlaying the parkway from Virginia Avenue to P Street and the Thompson Boat Center parking area; realigning the foot and bike trail in this section of the parkway; minor bridge repairs to the L Street bridge; ramps to and from K Street and Pennsylvania Avenue would be milled and overlaid; and reconstructing the P Street ramp to and from the southbound Parkway.

This project is needed because the asphalt pavement in this section of the parkway is in poor physical condition and many of the parkway features do not meet the National Road Standards or the American Association of State Highway Transportation Officials (AASHTO) standards. One area of the parkway near the P Street Bridge is experiencing poor drainage. These conditions require the National Park Service to take corrective action to extend the useful life of the parkway. In addition, the foot and bike trail is located adjacent to the parkway, and there is no protective barrier between the trail and vehicular traffic on the parkway. This creates a safety issue for commuters, recreational bikers, and pedestrians.

Repairs to the Thompson Boat Center parking area are needed due to the deteriorated condition of the asphalt in the parking area. In addition, the bridge approach has settled, and adjacent walks are uneven creating a safety concern.

SELECTED ACTION

The selected action (preferred alternative, Alternative B) is to rehabilitate the Rock Creek and Potomac Parkway from Virginia Avenue to P Street. As part of the rehabilitation, the National Park Service will realign a segment of the foot and bike trail away from the parkway. The other primary component of Alternative B is the rehabilitation of the access road, bridge and parking area to the Thompson Boat Center. New drop inlets will be installed along the parkway and at the Thompson Boat Center parking area.

Parkway Rehabilitation

The National Park Service will mill and resurface the parkway from Virginia Avenue to P Street. The existing street lights will be replaced with the same type of pole; however, the type of lighting will be changed to metal halide. New steel-backed timber guardrails will be placed between the parkway and the trail, including placing a 1.5-foot asphalt strip along the guard rail for vegetation control. Existing sections of the guardrail between the Parkway and Rock Creek will be replaced with steel-backed timber, but no new guardrail will be installed on this side of the Parkway. Sections of the parkway with a concrete base will be repaired as necessary. Rumble strips will be added in the median along the entire length of the project to alert motorists crossing the centerline.

Starting at Virginia Avenue heading north to approximately K Street, existing concrete curbs on the island along the Parkway will be replaced with granite curbs, but the stone blocks in the median will be retained. The outside Parkway curbs in this section will also be replaced with granite curbs. Ramps to and from K Street and Pennsylvania Avenue will be milled and overlaid and the curbs will be replaced with concrete curbs. An asphalt sidewalk under the K Street Bridge will be replaced in kind. Minor bridge repairs will occur at the L Street Bridge. The existing curb will be removed and replaced in kind. Drainage improvements will be made to collect a seep area between M Street and P Street. An underdrain will be located behind the curb and will connect to an existing inlet. The curb and gutter along the P Street ramp will be spot replaced as necessary. A temporary trail will be striped within the P Street ramp leading to the Georgetown neighborhood and the Rock Creek multi-use trail. The temporary striped trail will be removed once construction is complete. The pavement on the access ramp to P Street will be removed and replaced.

Realignment of the Foot and Bike Trail

Segments of the foot and bike path will be realigned away from the parkway (Figure 1). The existing asphalt path will be removed and a new trail constructed. The new trail will be either five feet or eight feet in width. Figure 2 shows a typical cross section of the new trail, new guardrail, and buffer area. In one area, the realignment of the trail will require that rock outcrops be cut back. Approximately 5 cubic yards of the rock outcropping located just south of the P Street ramp will be removed through the use of a hydraulic ram that will chip away at the outcropping until the desired cut-back is achieved. All vegetation removed for the realignment of the foot and bike trail will be replaced in kind, including the non-native narcissus bulbs near the rock outcrop. All other non-native vegetation will be replaced with native species. No blasting will be permitted. In addition, steel backed timber guardrails will be added to areas to further protect trail users from the parkway traffic.

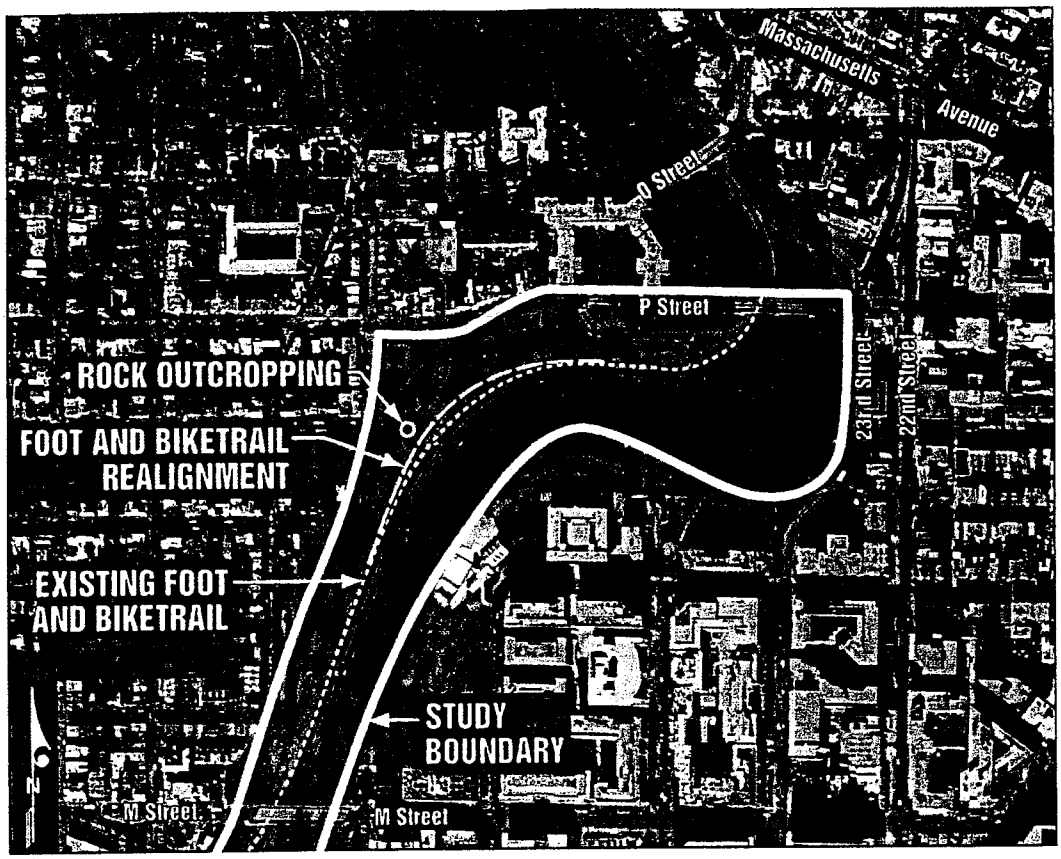

Figure 1: Location of foot and bike trail realignment

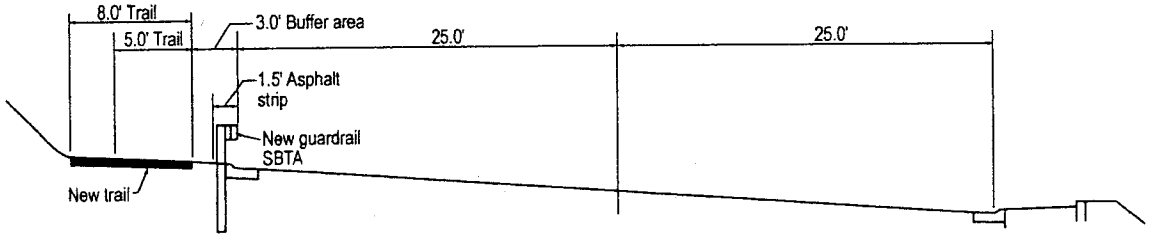

Figure 2: Cross section of foot and bike trail

Thompson Boat Center Parking Area Rehabilitation

The National Park Service will rehabilitate the existing parking area and entrance road to the Thompson Boat Center. Removal of the existing pavement in the parking area may be necessary. The National Park Service will reconstruct the parking area within the existing parking area footprint. The bridge over Rock Creek, curbs, and sidewalk on the bridge will be patched, as necessary. The bridge deck will be overlaid with concrete and sealed. Figure 3 illustrates the location of the improvements. An archeologist that meets the NPS Professional Standards for Archeologist and approved by the NPS will monitor all ground disturbing activities.

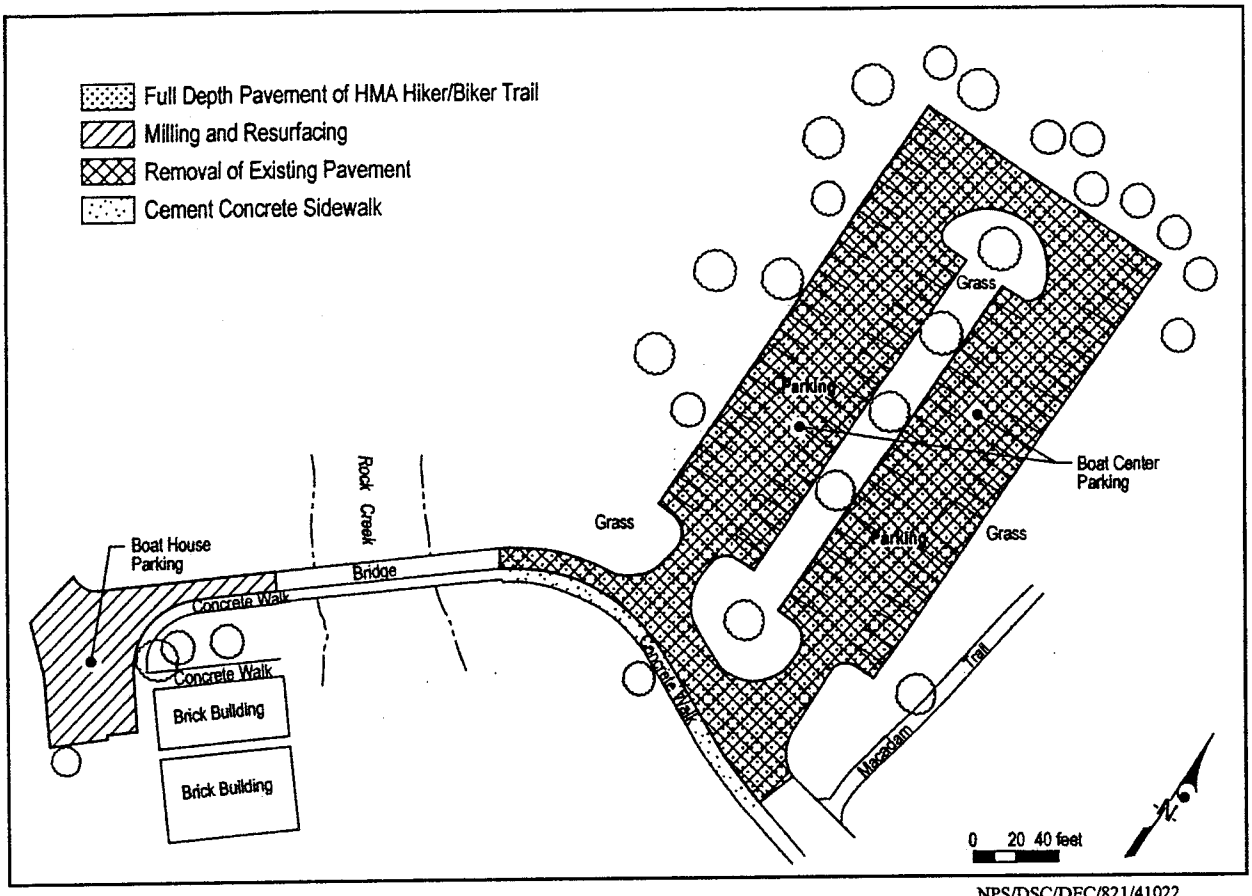

Figure 3: Thompson Boat Center parking area layout

ALTERNATIVES CONSIDERED

The *Environmental Assessment (EA) for the Rehabilitation of Rock Creek and Potomac Parkway from Virginia Avenue to P Street Bridge and the Thompson Boat Center, May 2005* analyzed the Preferred Alternative (now selected and described above), the No-Action Alternative, and one other action alternative (Alternative C). Under the No-Action Alternative, the National Park Service would conduct minor spot repairs to the parkway and Thompson Boat Center parking area, access road, and bridge. The parking surface at the boathouse would not be removed and resurfaced. A comprehensive milling and resurfacing program for the parkway would not be conducted. Neither the foot and bike trail nor the parkway would be realigned to separate the trail users from the traffic on the parkway. Bridge repairs along this section of the Parkway would not be conducted, which would not prolong the life of the bridges.

Alternative C would be the same as Alternative B except that under Alternative C, the National Park Service would rehabilitate the Rock Creek & Potomac Parkway, and shift the alignment of the parkway closer to Rock Creek rather than realigning a segment of the foot and bike trail. The parkway would be shifted to the east approximately 3 feet closer to Rock Creek from M Street to P Street. This alignment would provide more space between the curb line and the edge of the paved foot and bike trail. The realignment would remain within the existing curb line, which includes the flood curb. Alternative C also includes rehabilitation of the Thompson Boat Center parking area, access road and bridge as described under Alternative B.

ENVIRONMENTALLY PREFERRED ALTERNATIVE

In accordance with Director's Order #12 (NPS, 2001a), the NPS is required to identify the "environmentally preferred alternative" in all environmental documents, including Environmental Assessments. As described in the Council on Environmental Quality regulations, the environmentally preferred alternative is the alternative that will promote the national environmental policy as expressed in Section 101 of the National Environmental Policy Act, which considers the following:

1. Fulfilling the responsibilities of each generation as trustee of the environment for succeeding generations;
2. Assuring for all generations safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
3. Attaining the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences;
4. Preserving important historic, cultural, and natural aspects of our national heritage and maintaining, wherever possible, an environment that supports diversity and variety of individual choice;
5. Achieving a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and
6. Enhancing the quality of renewable resources and approaching the maximum attainable recycling of depletable resources (National Environmental Policy Act, Section 101).

The No-Action Alternative is not the environmentally preferred alternative because it does not fulfill Criteria 1 through 6 listed above. Specifically, the No-Action Alternative would not assure that the bridge, parkway, and parking area were maintained for each succeeding generation because deterioration of the bridge decking, parking lot, and parkway surface would continue. Safety would be compromised over time because potholes on the road surface would become more prevalent and would affect safe driving conditions on the parkway. In addition, the close proximity of the trail users to the parkway would not be addressed and safety concerns would persist.

Alternative B fulfills all criteria of the environmentally preferred alternative. The rehabilitation of the parkway and the Thompson Boat Center parking area will fulfill the National Park Service's responsibilities as a responsible trustee of the environment; assure a safe and aesthetically pleasing environment for future generations; achieve a balance between the resource and the population who use the parkway to assure a high standard of living; and enhance the quality of the resource. Moving the trail further away from the parkway will create a safer environment for trail users. In addition, this action will only create a negligible impact to vegetation and wildlife from the placement of a 1.5-foot wide asphalt strip between the parkway and the trail for vegetation control.

Alternative C, while it meets some of the same criteria to be considered the environmentally preferred alternative, does not attain the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable consequences (Criteria 3). Moving the alignment of the parkway would reduce the radius of the curve of the road just south of P Street. This would allow for an unsafe environment by creating a sharper curve for motorists to navigate. In addition, this

alternative would increase the impact to the floodplain. Therefore, Alternative C is not the environmentally preferred alternative.

WHY THE SELECTED ACTION (PREFERRRED ALTERNATIVE) WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT

As defined in 40 CFR §1508.27, significance is determined by examining the following criteria:

Impacts that may have both beneficial and adverse aspects and which on balance may be beneficial, but that may still have significant adverse impacts which require analysis in an EIS: No major adverse or beneficial impacts were identified that require analysis in an environmental impact statement. The selected action will have no or negligible foreseen projected adverse impacts on water resources; air quality; wildlife and threatened and endangered species; topography, geology, and soils; agricultural lands, prime and unique farmland soils; soundscape management, lightscape management; historic structures/sites; ethnographic resources; Indian Trust resources; socioeconomics; land use; environmental justice; community facilities and services; concession operations; park operations; and infrastructure.

There will be moderate, long-term, beneficial impacts on health and safety, transportation/traffic, and visitor experience and use; and a negligible, long-term and short-term, adverse impact on vegetation. Minor, short-term, adverse impacts will occur to health and safety and moderate, short-term, adverse impacts will occur for transportation/traffic and visitor experience and use. Minor, long-term, adverse impacts to the cultural landscape will occur. No impacts to archeological resources will occur.

Degree of effect on public health or safety: The selected action will have a beneficial impact on park staff and visitor safety by improving the safety of the trail, parkway, and Thompson Boat Center parking area. The selected action would reduce the potential for vehicles to leave the roadway or cross into oncoming traffic. The trail realignment would allow the NPS to spatially and physically separate trail users from southbound traffic on the Rock Creek and Potomac Parkway, which will reduce the risk of accidents between trail users and motorists.

Minor, short-term adverse impacts on health and safety would occur as a result of construction. A comprehensive traffic control plan will be developed before construction begins and implemented during construction to reduce the risk to motorists and trail users. This plan will specify certain work requirements to the contractor. For instance, only two lane closures will occur at one time (one lane in each direction) for the milling and overlay of the parkway and the ramp terminals. The plan will also require that no nighttime construction take place. Other aspects of the traffic control plan will include reducing the posted speed to 25 miles per hour and public notification.

The public will be made aware of trail closures and their need for an alternative route through public media releases two weeks prior to construction, signs will be posted within the project area two weeks in advance, and Variable Message Signs will be used during the first 48 hours of each stage of construction. Furthermore, the Thompson Boat Center access road and bridge rehabilitation will only occur for a period up to 30 days between November 1 and November 30 during non-peak visitation periods.

Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas: As described in the EA, agricultural land and prime and unique farmland; water resources; wetlands; floodplains; farmlands; and ecologically

critical areas will either not be affected or only negligibly affected by the selected action. Before any land disturbing occurs, a Soil Erosion Control Plan and a Stormwater Management Plan will be completed and submitted to the Sediment and Stormwater Technical Service Branch of the DC Department of Health – Environmental Administration, along with a construction permit application. The FHWA – Eastern Federal Lands Highway Division will be the party responsible for submittal of these items.

A geomorphological assessment was conducted to ascertain whether any original land surfaces with intact archeological resources might still persist in the area where drop inlets are proposed. This assessment was conducted along the parkway and at the Thompson Boat Center in the area of the proposed drop inlets on August 27, 2004. Positive samples were found at the Thompson Boat Center parking area and at the intersection of Virginia Avenue and the Rock Creek and Potomac Parkway. However, due to previous disturbances associated with construction of the Rock Creek and Potomac Parkway, there would be low potential for intact subsurface archeological resources. In the area of the two previously recorded prehistoric archeological sites, any construction will take place on the parkway in areas of previous disturbance. In the area of the Thompson Boat Center parking area, construction of the drop inlets may have the potential to impact soils that could preserve archeological resources. Therefore, in accordance with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation an NPS-approved archeologist will monitor all ground disturbing activities at the Thompson's Boat Center Parking Area and the intersection of Virginia Avenue and Rock Creek and Potomac Parkway.

In the event that potentially significant deposits or features are discovered during this process, work will be halted until finds can be documented, their significance assessed, and appropriate mitigation strategies developed in consultation with the DC Historic Preservation Office. If necessary, a Memorandum of Agreement will be developed. A letter was received from the DC Historic Preservation Office on August 31, 2005 concurring with this methodology for inadvertent discovery and archeological monitoring.

The selected action will have minor, long-term, adverse impacts on the cultural landscape under the National Environmental Policy Act due to realigning the trail, removing the outcropping of rocks, adding new guardrails, adding rumble strips, and replacing the stone curb. All of which will change the cultural landscape, but these changes will not diminish the overall integrity or historic setting of the landscape. All rehabilitation work will be completed consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (36 CFR 68), the Secretary *of the Interior's Standards for Rehabilitation* (36 CFR Part 67), the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716), and the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes* (1996). There will be five cubic yards of rock outcropping removed for this project just south of the P Street ramp. In order to accomplish the cut-back, a hydraulic ram will chip away at the outcropping until the desired cut-back is achieved. This procedure should produce a random, uneven removal of the rock that will have a rough, natural appearance upon completion. In accordance with Section 106 of the National Historic Preservation Act, implementation of the selected action will have *no adverse effect* on the cultural landscape because the selected action will not alter those characteristics that made the parkway eligible for listing on the National Register.

There is one historic resource associated with Rock Creek Park and the Rock Creek and Potomac Parkway that is within the study area and listed on the National Register of Historic Places. It is the Godey Lime Kilns. The selected action will not alter any characteristics that made the kilns eligible for listing on the National Register; therefore, no impacts to historic resources will occur. There are no ethnographic or Indian trust resources known to exist in or in the proximity of the project area. In the unlikely event that human remains or cultural items subject to the Native American Graves Protection and Repatriation Act (NAGPRA) are discovered, work in the area of the find will stop and the NPS will follow the appropriate provisions of NAGPRA implementing regulations (43 CFR Part 10).

Degree to which effects on the quality of the human environment are likely to be highly controversial: There were no highly controversial effects identified during either preparation of the EA or the public review period. One comment on the effects of the project was received during the EA review period. A response to this comment is provided in the attached errata sheet.

Degree to which the possible effects on the quality of the human environment are highly uncertain or involve unique or unknown risks: There were no highly uncertain, unique, or unknown risks identified during either preparation of the EA or the public review period.

Degree to which the action may establish a precedent for further actions with significant effects or represents a decision in principle about a future consideration: The selected action neither establishes a NPS precedent for future actions with significant effects nor represents a decision in principle about a future consideration.

Whether the action is related to other actions with individually insignificant but cumulatively significant impacts: No cumulatively significant impacts were identified. As described in the EA, cumulative impacts were determined by combining the impacts of the selected action with other past, present, and reasonably foreseeable future actions. Past, present and reasonably foreseeable actions that may have the potential to cumulatively impact resources include the Kennedy Center Access Improvements, construction of the Swedish Embassy, the DC Department of Public Works Bridge Rehabilitation, Rehabilitation of Rock Creek and Potomac Parkway and Beach Drive from P Street to the Maryland State line, the East-West Travel Study, and the Georgetown Waterfront Park.

None of the past, present and reasonably foreseeable future projects will impact archeological resources. Therefore, the selected action will not result in any cumulative impacts.

The minor, long-term, adverse impact of the selected action on the cultural landscape will add a detectable adverse component to overall minor adverse cumulative effects resulting from future road improvement projects. The Kennedy Center improvements and the DC Department of Public Works Bridge Rehabilitation projects combined with the selected action will not have a cumulative effect on the cultural landscape greater than minor.

The moderate, long-term, beneficial impact of the selected action on health and safety will add a moderate, beneficial component to the overall cumulative effects resulting from the selected action and the improvements to Rock Creek and Potomac Parkway

from P Street, NW to the Maryland State line and the DC Department of Public Works Bridge Rehabilitation projects.

Construction activities associated with any of the projects that make up the cumulative effects scenario may have the potential to adversely impact vegetation. The selected action, when added to these actions, will contribute a noticeable beneficial increment to the overall adverse cumulative effects. Short term adverse impacts associated with construction of the selected action on health and safety, transportation/traffic, and visitor experience and use combined with the impacts of past, present and reasonable foreseeable future actions may result in an overall negligible adverse cumulative impact.

The selected action will create a beneficial impact to transportation and traffic. These beneficial impacts will collectively add a beneficial component to the overall minor, beneficial cumulative effects.

The selected action will create beneficial impacts on visitor experience and use. These beneficial impacts add a detectable increment to the overall moderate, beneficial cumulative effects.

Degree to which the action may adversely affect districts, sites, highways, structures, or objects listed on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources: As described in the EA, the selected action will not have moderate or major adverse affects on any properties listed or eligible for listing on the National Register of Historic Places, nor cause loss or destruction of significant scientific, cultural, or historical resources.

Archeological resources in the vicinity of the project area will be avoided. Construction will take place in areas already impacted during the construction of the parkway. In accordance with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, an NPS-approved archeologist will monitor the project area during ground disturbance at the Thompson's Boat Center parking area. In the event that potentially significant deposits or features are discovered during this process, work will be halted until finds can be documented, their significance assessed, and appropriate mitigation strategies developed in consultation with the DC Historic Preservation Office. If necessary, a Memorandum of Agreement will be developed. A letter was received from the DC Historic Preservation Office on August 31, 2005 concurring with this methodology for inadvertent discovery and archeological monitoring.

The selected action will have minor, long-term, adverse impacts on the cultural landscape under the National Environmental Policy Act due to realigning the trail, removing the outcropping of rocks, adding new guardrails, adding rumble strips, and replacing the stone curb. See previous description under "Unique Characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas."

Degree to which the action may adversely affect an endangered or threatened species or its critical habitat: There are no known threatened, endangered, or candidate species of special concern known to inhabit the project area of the selected action.

In response to requests for information regarding the presence of species which are federally listed or proposed for listing as endangered or threatened located in the study area for the selected action, the U.S. Fish and Wildlife Service replied that no known rare species or species of concern, federally-listed endangered and threatened species,

wetlands, or critical habitat are known to exist in the project area or are expected to be affected by the project activities (Letter from Mary J. Ratnaswamy, Ph.D., Program Supervisor, Threatened and Endangered Species, USFWS, May 5, 2004). However, based upon research conducted by the park, one federally endangered species, the Hay's Spring amphipod (*Stygobromus hayi*), is known to occur in five springs within Rock Creek Park and the National Zoological Park, but is not believed to be present in the study area. Based upon information received from the National Park Service (Letter from Shawn D. Carter, Ph.D., Regional Coordinator – Inventory and Monitoring, NPS, March 17, 2004) there are no recorded sitings within the boundaries of the selected action.

Whether the action threatens a violation of federal, state, or local environmental protection laws: The selected action (preferred alternative) violates no federal, state, or local environmental protection laws.

IMPAIRMENT OF PARK RESOURCES OR VALUES

In addition to reviewing the list of significance criteria, the Superintendent of the Rock Creek and Potomac Parkway, Rock Creek Park has determined that implementation of the selected action will not constitute an impairment of the park's resources or values. This conclusion is based on a thorough analysis of the impacts described in the EA, the agency and public comments received, and the professional judgment of the decision-maker in accordance with the NPS' *Management Policies, 2001* (December, 2000). As described in the EA, implementation of the selected action will not result in major, adverse impacts to a resource or value whose conservation is (1) necessary to fulfill specific purposes identified in the establishing of legislation or proclamation of the Rock Creek and Potomac Parkway, Rock Creek Park, (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning document. Therefore, there will be no impairment of the park's resources or values.

PUBLIC INVOLVEMENT

The EA was made available for public review and comment from May 5, 2005 through August 8, 2005. The NPS sent 41 copies of the EA to various local and civic organizations for their review and comment. Copies of the EA were also available for the review at the park headquarters and at 13 local area libraries, including the Library of Congress. As of the end of the public review period on August 8, 2005, the NPS received one response commenting on the EA from the Friends of Rose Park. This FONSI will act as the official response to their concerns. No substantive comments objecting to the selected action were received.

CONCLUSION

The selected action (preferred alternative), under this Finding of No Significant Impact, does not constitute an action that normally requires preparation of an environmental impact statement. The selected action will not have a significant effect on the quality of the human environment. Adverse environmental impacts that could occur are negligible to moderate in intensity. Mitigation measures will be incorporated into the selected action to reduce or eliminate impacts. There are no significant adverse impacts to public health, public safety, threatened or endangered species, or archeological resources. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the action will not violate any federal, state, or local environmental protection law.

Based on the foregoing, it has been determined that an environmental impact statement is not required for this project and thus will not be prepared.

Recommended: _____ 10/6/05

Adrienne Coleman, Superintendent
Rock Creek and Potomac Parkway
and Rock Creek Park

Date

Approved: _____ 10/11/05

Joe Lawler, Director
National Capital Region, NPS

Date

NPDES General Permit for Storm Water Discharges From Construction Activities

Table of Contents **As modified effective January 21, 2005**

APPENDICES

National Pollutant Discharge Elimination System
General Permit for Discharges from
Large and Small Construction Activities

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et. seq., (hereafter CWA or the Act), as amended by the Water Quality Act of 1987, P.L. 100-4, operators of large and small construction activities that are described in Subpart 1.3 of this National Pollutant Discharge Elimination System (NPDES) general permit, except for those activities excluded from authorization of discharge in Subpart 1.3.C of this permit are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein. Permit coverage is required from the "commencement of construction activities" until "final stabilization" as defined in Appendix A.

This permit shall become effective on July 1, 2003 (as modified effective January 21, 2005).

This permit and the authorization to discharge shall expire at midnight, July 1, 2008.

Signed:

Linda M. Murphy, Director, Office of Ecosystem Protection
EPA Region 1

Kevin Bricke, Acting Director, Division of Environmental Planning and Protection
EPA Region 2

Carlos E. O'Neill, P.E., Acting Division Director, Caribbean Environmental Protection Division
EPA Region 2

John M. Capacasa, Director, Water Protection Division
EPA Region 3

Rebecca Harvey, Chief, NPDES Program Branch
EPA Region 5

Miguel I. Flores, Director, Water Quality Protection Division
EPA Region 6

Leo J. Alderman, Director, Water, Wetlands, and Pesticides Division
EPA Region 7

Stephen S. Tuber, Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance
EPA Region 8

Nancy Woo, Acting Director, Water Division
EPA Region 9

Randall F. Smith, Director, Office of Water
EPA Region 10

The signatures are for the permit conditions in Parts 1 through 9 and Appendices A through G and for any additional conditions which apply to facilities located in the corresponding state, Indian country, or other area.

PART 1: COVERAGE UNDER THIS PERMIT

1.1 Introduction

This Construction General Permit (CGP) authorizes storm water discharges from large and small construction activities that result in a total land disturbance of equal to or greater than one acre, where those discharges enter surface waters of the United States or a municipal separate storm sewer system (MS4) leading to surface waters of the United States subject to the conditions set forth in this permit. This permit also authorizes storm water discharges from any other construction activity designated by EPA where EPA makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to waters of the United States. This permit replaces two permits issued in 1998 (63 FR 7858, February 17, 1998 for EPA Regions 1, 2, 3, 7, 8, 9, and 10 and 63 FR 36489, July 6, 1998 for EPA Region 6). Any references to the 1998 CGP in this permit refer to those two permits.

This permit is presented in a reader-friendly, plain language format. This permit uses the terms “you” and “your” to identify the person(s) who owns or operates a “facility” or “activity” as defined in Appendix A and who must comply with the conditions of this permit. This format should allow you, the permittee and operator of a large or small construction activity, to easily locate and understand applicable requirements.

The goal of this permit is to reduce or eliminate storm water pollution from construction activity by requiring that you plan and implement appropriate pollution control practices to protect water quality.

1.2 Permit Area

If your large or small construction activity is located within the areas listed in Appendix B, you may be eligible to obtain coverage under this permit. Permit coverage is actually provided by legally separate and distinctly numbered permits covering each of the areas listed in Appendix B.

1.3 Eligibility

Permit eligibility is limited to discharges from “large” and “small” construction activity as defined in Appendix A or as otherwise designated by EPA. This general permit contains eligibility restrictions, as well as permit conditions and requirements. You may have to take certain actions to be eligible for coverage under this permit. In such cases, you must continue to satisfy those eligibility provisions to maintain permit authorization. If you do not meet the requirements that are a pre-condition to eligibility, then resulting discharges constitute unpermitted discharges. By contrast, if you do not comply with the requirements of the general permit, you may be in violation of the general permit for your otherwise eligible discharges.

A. Allowable Storm Water Discharges

Subject to compliance with the terms and conditions of this permit, you are authorized to discharge pollutants in:

1. Storm water associated with large and small construction activity as defined in Appendix A;
2. Storm water discharges designated by EPA as needing a storm water permit under 40 CFR §122.26(a)(1)(v) or §122.26(b)(15)(ii);
3. Discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:
    a. The support activity is directly related to the construction site required to have NPDES permit coverage for discharges of storm water associated with construction activity;
    b. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
    c. Appropriate controls and measures are identified in a Storm Water Pollution Prevention Plan (SWPPP) covering the discharges from the support activity areas; and
4. Discharges composed of allowable discharges listed in 1.3.A and 1.3.B commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

B. Allowable Non-Storm Water Discharges

You are authorized for the following non-storm water discharges, provided the non-storm water component of the discharge is in compliance with Subpart 3.5 (Non-Storm Water Discharge Management):

1. Discharges from fire-fighting activities;
2. Fire hydrant flushings;
3. Waters used to wash vehicles where detergents are not used;
4. Water used to control dust in accordance with Subpart 3.4.G;
5. Potable water including uncontaminated water line flushings;
6. Routine external building wash down that does not use detergents;
7. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated ground water or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
11. Uncontaminated excavation dewatering;
12. Landscape irrigation.

C. Limitations on Coverage

1. This permit does not authorize post-construction discharges that originate from the site after construction activities have been completed and the site has achieved final stabilization, including any temporary support activity. Post-construction storm water discharges from industrial sites may need to be covered by a separate NPDES permit.
2. This permit does not authorize discharges mixed with non-storm water. This exclusion does not apply to discharges identified in Subpart 1.3.B, provided the discharges are in compliance with Subpart 3.5 (Non-Storm Water Discharge Management).
3. This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Subpart 4.2.
4. This permit does not authorize discharges that EPA, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, EPA may notify you that an individual permit application is necessary in accordance with Subpart 4.2. However, EPA may authorize your coverage under this permit after you have included appropriate controls and implementation procedures in your SWPPP designed to bring your discharge into compliance with water quality standards.
5. *Discharging into Receiving Waters With an Approved Total Maximum Daily Load Analysis*
    a. You are not eligible for coverage under this permit for discharges of pollutants of concern to waters for which there is a total maximum daily load (TMDL) established or approved by EPA unless you incorporate into your SWPPP measures or controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, you must incorporate into your SWPPP any conditions applicable to your discharges necessary for consistency with the assumptions and requirements of such TMDL. If a specific wasteload allocation has been established that would apply to your discharge, you must incorporate that allocation into your SWPPP and implement necessary steps to meet that allocation.
    b. In a situation where an EPA-approved or established TMDL has specified a general wasteload allocation applicable to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL**,** you should consult with the State or Federal TMDL authority to confirm that adherence to a SWPPP that meets the requirements of the CGP will be consistent with the approved TMDL. Where an EPA-approved or established TMDL has not

specified a wasteload allocation applicable to construction storm water discharges, but has not specifically excluded these discharges, adherence to a SWPPP that meets the requirements of the CGP will generally be assumed to be consistent with the approved TMDL. If the EPA-approved or established TMDL specifically precludes such discharges, the operator is not eligible for coverage under the CGP.

6. *Endangered and Threatened Species and Critical Habitat Protection*

   a. Coverage under this permit is available only if your storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities, as defined in Appendix A, are not likely to jeopardize the continued existence of any species that are federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is federally-designated as critical under the ESA ("critical habitat").

   b. You are not eligible to discharge if the storm water discharges, allowable non-storm water discharges, or storm water discharge-related activities would cause a prohibited "take" of federally-listed endangered or threatened species (as defined under section 3 of the ESA and 50 CFR 17.3), unless such takes are authorized under sections 7 or 10 of the ESA.

   c. Determining Eligibility: You must use the process in Appendix C (ESA Review Procedures) to determine eligibility *PRIOR* to submittal of the Notice of Intent (NOI). You must meet one or more of the following six criteria (A-F) for the entire term of coverage under the permit:

   Criterion A. No federally-listed threatened or endangered species or their designated critical habitat are in the project area as defined in Appendix C; or

   Criterion B. Formal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the ESA has been concluded and that consultation:

      i. Addressed the effects of the project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and
      ii. The consultation resulted in either:

         a. Biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or

         b. written concurrence from the Service(s) with a finding that the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or

   Criterion C. Informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the ESA has been concluded and that consultation:

      i. Addressed the effects of the project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and
      ii. The consultation resulted in either:

         a. Biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or

         b. written concurrence from the Service(s) with a finding that the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or

   Criterion D. The construction activities are authorized through the issuance of a permit under section 10 of the ESA, and that authorization addresses the effects of the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed species and federally-designated critical habitat; or

   Criterion E. Storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect any federally-listed

threatened or endangered species or result in the destruction or adverse modification of federally-designated critical habitat; or

Criterion F. The project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities were already addressed in another operator's valid certification of eligibility under Criteria A-E which included your construction activities and there is no reason to believe that federally-listed species or federally-designated critical habitat not considered in the prior certification may be present or located in the project area. By certifying eligibility under this criterion, you agree to comply with any measures or controls upon which the other operator's certification was based.

You must comply with any applicable terms, conditions, or other requirements developed in the process of meeting the eligibility requirements of the criteria in this section to remain eligible for coverage under this permit. Such terms and conditions must be documented and incorporated into your SWPPP.

7. Historic Properties

[Reserved]

You are reminded that you must comply with applicable state, tribal and local laws concerning the protection of historic properties and places.

1.4 Waivers for Certain Small Construction Activities

Three scenarios exist under which small construction activities (see definition in Appendix A) may be waived from the NPDES permitting requirements detailed in this general permit. These exemptions are predicated on certain criteria being met and proper notification procedures being followed. Details of the waiver options and procedures for requesting a waiver are provided in Appendix D.

PART 2: AUTHORIZATION FOR DISCHARGES OF STORM WATER FROM CONSTRUCTION ACTIVITY

To obtain coverage under this general permit, you, the operator, must prepare and submit a complete and accurate Notice of Intent (NOI), as described in this Part. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage.

2.1 Authorization to Discharge Date

This permit is effective as of the publication date in the Federal Register and is effective for five years, expiring at midnight on the anniversary of publication in the fifth year.

A. If you submit an NOI during the first 90 days after the issuance date of this permit you are authorized to discharge storm water from construction activities under the terms and conditions of this permit seven (7) calendar days after submittal to EPA of a complete and accurate NOI (i.e., 7 days from date of postmark), except as noted in Subpart 2.1.C.

B. If you submit an NOI after the first 90 days of this permit and prior to the expiration date of this permit, you are authorized to discharge storm water from construction activities under the terms and conditions of this permit seven (7) calendar days after acknowledgment of receipt of your complete NOI is posted on EPA's NPDES website ***http://www.epa.gov/npdes/stormwater/cgp***, except as noted in Subpart 2.1.C.

C. EPA may delay your authorization based on eligibility considerations of Subpart 1.3 (e.g., ESA concerns). In these instances, you are not authorized for coverage under this permit until you receive notice from EPA of your eligibility.

2.2 Notice of Intent Contents

A. You must use the NOI form provided in Appendix E (or a photocopy thereof) and available at **www.epa.gov/npdes/stormwater/cgp**. If EPA makes other NOI forms available (either directly, by public notice, or by making information available on the Internet), you may take advantage of any of those options to satisfy the NOI use requirements of this Subpart.

B. You must provide the following information on the NOI form:

1. The applicable permit number for which you are requesting coverage (See Appendix B);

2. Operator name, address, telephone number, and Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
3. Project/Site name, address, county or similar governmental subdivision, and latitude/longitude of your construction project or site;
4. Whether your site is located in Indian country and if so, the name of the Reservation, if applicable;
5. Whether the SWPPP has been prepared in advance of filing of this NOI and the location where the applicable SWPPP may be viewed;
6. Name of the water(s) of the U.S. into which your site discharges;
7. Indication whether your discharge is consistent with the assumptions and requirements of applicable EPA approved or established TMDLs;
8. Estimated dates of commencement of construction activity and final stabilization (i.e., project start and completion dates);
9. Total acreage (to the nearest quarter acre) to be disturbed for which you are requesting permit coverage;
10. Whether any federally-listed threatened or endangered species, or federally-designated critical habitat are in your project area to be covered by this permit, and the basis for certifying eligibility for permit coverage based on the instructions in Appendix C;
11. A certification statement, signed and dated by an authorized representative as defined in Appendix G, Section 11, and the name and title of that authorized representative.

2.3 Submission Deadlines

A. *New Projects:* To obtain coverage under this permit, you must submit a complete and accurate NOI and be authorized consistent with Subpart 2.1 prior to your commencement of construction activities.

B. *Permitted Ongoing Projects (only applicable for first 90 days after this permit is issued):* If you previously received authorization to discharge for your project under the 1998 CGP and you wish to continue coverage under this permit:

1. Except as noted in 2.3.B.2, you must:
    1. Submit an NOI within 90 days of the issuance date of this permit, and
    2. Until you are authorized under this permit consistent with Subpart 2.1, comply with the terms and conditions of the 1998 CGP under which you were previously authorized.
2. If you meet the termination of coverage requirements in accordance with Subpart 5.1 within 90 days of the issuance date of this permit (e.g., construction will be finished and final stabilization achieved) you must:
    1. Submit an NOT consistent with the 2003 CGP using the NOT form provided in Appendix F, and
    2. Until coverage is no longer required, comply with the terms and conditions of the 1998 CGP under which you were previously authorized.

C. *Unpermitted Ongoing Projects (only applicable for first 90 days after this permit is issued):* If you previously did not receive authorization to discharge for your project under the 1998 CGP and you wish to obtain coverage under this permit:

1. Except as noted in 2.3.C.2, you must:
    1. Submit an NOI within 90 days of the issuance date of this permit, and
    2. Until you are authorized under this permit consistent with Subpart 2.1, comply with an interim Storm Water Pollution Prevention Plan (SWPPP) consistent with the 1998 CGP.
2. If you meet the termination of coverage requirements in accordance with Subpart 5.1 within 90 days of the issuance date of this permit (e.g., construction will be finished and final stabilization achieved) you must comply with an interim Storm Water Pollution Prevention Plan (SWPPP) consistent with the 1998 CGP until permit coverage is no longer required.

D. *Late Notifications:* Operators are not prohibited from submitting NOIs after initiating clearing, grading, excavation activities, or other construction activities. When a late NOI is submitted, authorization for discharges occurs consistent with Subpart 2.1. The Agency reserves the right to take enforcement action for any unpermitted discharges that occur between the commencement of construction and discharge authorization.

2.4 Where to Submit

A. Except as noted in Subpart 2.3.B, you must send your complete and accurate NOI to EPA at one of the following addresses:

For Regular U.S. Mail Delivery:
EPA Storm Water Notice Processing Center
Mail Code 4203M
U.S. EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460

For Overnight/Express Mail Delivery:
EPA Storm Water Notice Processing Center
Room 7420
U.S. EPA
1201 Constitution Avenue, NW
Washington, DC 20004

B. In lieu of Subpart 2.4.A, when available, you may submit your NOI using EPA's electronic NOI system (i.e., eNOI) as detailed at www.epa.gov/npdes/stormwater/cgp.

PART 3: STORM WATER POLLUTION PREVENTION PLANS (SWPPPS)

3.1 Storm Water Pollution Prevention Plan Framework

A. A SWPPP must be prepared prior to submission of an NOI as required in Part 2. At least one SWPPP must be developed for each construction project covered by this permit and such SWPPP must be prepared in accordance with good engineering practices.

B. The SWPPP must:

1. Identify all potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site;
2. Describe practices to be used to reduce pollutants in storm water discharges from the construction site; and
3. Assure compliance with the terms and conditions of this permit.

C. Once a definable area has been finally stabilized, you may mark this on your SWPPP and no further SWPPP or inspection requirements apply to that portion of the site (e.g., earth-disturbing activities around one of three buildings in a complex are done and the area is finally stabilized, one mile of a roadway or pipeline project is done and finally stabilized, etc).

D. You must implement the SWPPP as written from commencement of construction activity until final stabilization is complete.

3.2 Requirements for Different Types of Operators

You may meet one or both of the operational control components in the definition of operator found in Appendix A. Subpart 3.2.C applies to all permittees having control over only a portion of a construction site.

A. If you have operational control over construction plans and specifications, you must ensure that:

1. The project specifications meet the minimum requirements of this Subpart and all other applicable permit conditions;
2. The SWPPP indicates the areas of the project where the operator has operational control over project specifications, including the ability to make modifications in specifications;
3. All other permittees implementing portions of the SWPPP (or their own SWPPP) who may be impacted by a change to the construction plan are notified of such changes in a timely manner; and
4. The SWPPP indicates the name of the party(ies) with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions.

B. If you have operational control over day-to-day activities, you must ensure that:

1. The SWPPP meets the minimum requirements of this Subpart and identifies the parties responsible for implementation of control measures identified in the plan;
2. The SWPPP indicates areas of the project where you have operational control over day-to-day activities;
3. The SWPPP indicates the name of the party(ies) with operational control over project specifications (including the ability to make modifications in specifications).

C. If you have operational control over only a portion of a larger project (e.g., one of four homebuilders in a subdivision), you are responsible for compliance with all applicable terms and conditions of this permit as it relates to your activities on your portion of the construction site, including protection of endangered species, critical habitat, and historic properties, and implementation of best management practices (BMPs) and other controls required by the SWPPP. You must ensure either directly or through coordination with other permittees, that your activities do not render another party's pollution control ineffective. You must either implement your portion of a common SWPPP or develop and implement your own SWPPP.

For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required to, develop separate SWPPPs that cover only their portion of the project provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, cooperation between the permittees is encouraged to ensure the storm water discharge controls and other measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

3.3 Pollution Prevention Plan Contents: Site and Activity Description

A. The SWPPP must identify all operators for the project site, and the areas of the site over which each operator has control.

B. The SWPPP must describe the nature of the construction activity, including:

1. The function of the project (e.g., low density residential, shopping mall, highway, etc.);
2. The intended sequence and timing of activities that disturb soils at the site;
3. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities, including dedicated off-site borrow and fill areas; and
4. A general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with enough detail to identify the location of the construction site and waters of the United States within one mile of the site.

C. The SWPPP must contain a legible site map, showing the entire site, identifying:

1. Direction(s) of storm water flow and approximate slopes anticipated after major grading activities;
2. Areas of soil disturbance and areas that will not be disturbed;
3. Locations of major structural and nonstructural BMPs identified in the SWPPP;
4. Locations where stabilization practices are expected to occur;
5. Locations of off-site material, waste, borrow or equipment storage areas;
6. Locations of all waters of the United States (including wetlands);
7. Locations where storm water discharges to a surface water; and
8. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.

D. The SWPPP must describe and identify the location and description of any storm water discharge associated with industrial activity other than construction at the site. This includes storm water discharges from dedicated asphalt plants and dedicated concrete plants, that are covered by this permit.

3.4 Pollution Prevention Plan Contents: Controls to Reduce Pollutants

A. The SWPPP must include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. For each major activity identified in the project description the SWPPP must clearly describe appropriate control measures, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation.

B. The SWPPP must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized. Use of impervious surfaces for stabilization should be avoided.

C. The following records must be maintained as part of the SWPPP:

   1. Dates when major grading activities occur;

   2. Dates when construction activities temporarily or permanently cease on a portion of the site; and

   3. Dates when stabilization measures are initiated.

D. The SWPPP must include a description of structural practices to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site. Placement of structural practices in floodplains must be avoided to the degree practicable.

E. The SWPPP must include a description of all post-construction storm water management measures that will be installed during the construction process to control pollutants in storm water discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree practicable. Such measures must be designed and installed in compliance with applicable federal, local, state or tribal requirements.

F. The SWPPP must describe measures to prevent the discharge of solid materials, including building materials, to waters of the United States, except as authorized by a permit issued under section 404 of the CWA.

G. The SWPPP must describe measures to minimize, to the extent practicable, off-site vehicle tracking of sediments onto paved surfaces and the generation of dust.

H. The SWPPP must include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP must also include a description of controls, including storage practices, to minimize exposure of the materials to storm water, and spill prevention and response practices.

I. The SWPPP must include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

3.5 Non-Storm Water Discharge Management

The SWPPP must identify all allowable sources of non-storm water discharges listed in Subpart 1.3.B of this permit, except for flows from fire fighting activities, that are combined with storm water discharges associated with construction activity at the site. Non-storm water discharges should be eliminated or reduced to the extent feasible. The SWPPP must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

3.6 Maintenance of Controls

A. All erosion and sediment control measures and other protective measures identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Subpart 3.10 identify BMPs that are not operating effectively, maintenance must be performed as soon as possible and before the next storm event whenever practicable to maintain the continued effectiveness of storm water controls.

B. If existing BMPs need to be modified or if additional BMPs are necessary for any reason, implementation must be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation must be documented in the SWPPP and alternative BMPs must be implemented as soon as possible.

C. Sediment from sediment traps or sedimentation ponds must be removed when design capacity has been reduced by 50 percent.

3.7 Documentation of Permit Eligibility Related to Endangered Species

The SWPPP must include documentation supporting a determination of permit eligibility with regard to Endangered Species, including:

A. Information on whether federally-listed endangered or threatened species, or federally-designated critical habitat may be in the project area;

B. Whether such species or critical habitat may be adversely affected by storm water discharges or storm water discharge-related activities from the project;

C. Results of the Appendix C listed species and critical habitat screening determinations;

D. Confirmation of delivery of NOI to EPA or to EPA's electronic NOI system. This may include an overnight, express or registered mail receipt acknowledgment; or electronic acknowledgment from EPA's electronic NOI system.

E. Any correspondence for any stage of project planning between the U.S. Fish and Wildlife Service (FWS), EPA, the U.S. National Marine Fisheries Service (NMFS), or others and you regarding listed species and critical habitat, including any notification that delays your authorization to discharge under this permit;

F. A description of measures necessary to protect federally-listed endangered or threatened species, or federally-designated critical habitat. The permittee must describe and implement such measures to maintain eligibility for coverage under this permit.

3.8 Copy of Permit Requirements

Copies of this permit and of the signed and certified NOI form that was submitted to EPA must be included in the SWPPP. Also, upon receipt, a copy of the letter from the EPA Storm Water Notice Processing Center notifying you of their receipt of your administratively complete NOI must also be included as a component of the SWPPP.

3.9 Applicable State, Tribal, or Local Programs

The SWPPP must be consistent with all applicable federal, state, tribal, or local requirements for soil and erosion control and storm water management, including updates to the SWPPP as necessary to reflect any revisions to applicable federal, state, tribal, or local requirements for soil and erosion control.

3.10 Inspections

A. Inspections must be conducted in accordance with one of the two schedules listed below. You must specify in your SWPPP which schedule you will be following.

   1. At least once every 7 calendar days, OR

   2. At least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

B Inspection frequency may be reduced to at least once every month if:

   1. The entire site is temporarily stabilized,

   2. Runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen), or

   3. Construction is occurring during seasonal arid periods in arid areas and semi-arid areas.

C. A waiver of the inspection requirements is available until one month before thawing conditions are expected to result in a discharge if all of the following requirements are met:

   1. The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., more than one month);

   2. Land disturbance activities have been suspended; and

   3. The beginning and ending dates of the waiver period are documented in the SWPPP.

D. Inspections must be conducted by qualified personnel (provided by the operator or cooperatively by multiple operators). "Qualified personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact

storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity.

E. Inspections must include all areas of the site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors must look for evidence of, or the potential for, pollutants entering the storm water conveyance system. Sedimentation and erosion control measures identified in the SWPPP must be observed to ensure proper operation. Discharge locations must be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to waters of the United States, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.

F. Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may limit the access of inspection personnel to the areas described in Subpart 3.10.E above. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected on the same frequencies as other construction projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 mile above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas described above. The conditions of the controls along each inspected 0.25 mile segment may be considered as representative of the condition of controls along that reach extending from the end of the 0.25 mile segment to either the end of the next 0.25 mile inspected segment, or to the end of the project, whichever occurs first.

G. For each inspection required above, you must complete an inspection report. At a minimum, the inspection report must include:

   1. The inspection date;
   2. Names, titles, and qualifications of personnel making the inspection;
   3. Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
   4. Weather information and a description of any discharges occurring at the time of the inspection;
   5. Location(s) of discharges of sediment or other pollutants from the site;
   6. Location(s) of BMPs that need to be maintained;
   7. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
   8. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
   9. Corrective action required including any changes to the SWPPP necessary and implementation dates.

A record of each inspection and of any actions taken in accordance with this Part must be retained as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance with the permit conditions. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the construction project or site is in compliance with the SWPPP and this permit. The report must be signed in accordance with Appendix G, Section 11 of this permit.

3.11 Maintaining an Updated Plan

A. The SWPPP, including the site map, must be amended whenever there is a change in design, construction, operation, or maintenance at the construction site that has or could have a significant effect on the discharge of pollutants to the waters of the United States that has not been previously addressed in the SWPPP.

B. The SWPPP must be amended if during inspections or investigations by site staff, or by local, state, tribal or federal officials, it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the construction site.

C. Based on the results of an inspection, the SWPPP must be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed within

seven (7) calendar days following the inspection. Implementation of these additional or modified BMPs must be accomplished as described in Subpart 3.6.B.

3.12 Signature, Plan Review and Making Plans Available

A. A copy of the SWPPP (including a copy of the permit), NOI, and acknowledgement letter from EPA must be retained at the construction site (or other location easily accessible during normal business hours to EPA, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service) from the date of commencement of construction activities to the date of final stabilization. If you have day-to-day operational control over SWPPP implementation, you must have a copy of the SWPPP available at a central location on-site for the use of all those identified as having responsibilities under the SWPPP whenever they are on the construction site. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.

B. A sign or other notice must be posted conspicuously near the main entrance of the construction site. If displaying near the main entrance is infeasible, the notice can be posted in a local public building such as the town hall or public library. The sign or other notice must contain the following information:

   1. A copy of the completed Notice of Intent as submitted to the EPA Storm Water Notice Processing Center; and

   2. If the location of the SWPPP or the name and telephone number of the contact person for scheduling SWPPP viewing times has changed (i.e., is different than that submitted to EPA in the NOI), the current location of the SWPPP and name and telephone number of a contact person for scheduling viewing times.

   For linear projects, the sign or other notice must be posted at a publicly accessible location near the active part of the construction project (e.g., where a pipeline project crosses a public road).

C. SWPPPs must be made available upon request by EPA; a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service to the requestor. The copy of the SWPPP that is required to be kept on-site or locally available must be made available, in its entirety, to the EPA staff for review and copying at the time of an on-site inspection.

D. All SWPPPs must be signed and certified in accordance with Appendix G, Section 11.

3.13 Management Practices

A. All control measures must be properly selected, installed, and maintained in accordance with any relevant manufacturer specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the operator must replace or modify the control for site situations as soon as practicable.

B. If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts.

C. Litter, construction debris, and construction chemicals that could be exposed to storm water must be prevented from becoming a pollutant source in storm water discharges.

D. Except as provided below, stabilization measures must be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

   1. Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.

   2. Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the site.

3. In arid, semiarid, and drought-stricken areas where initiating perennial vegetative stabilization measures is not possible within 14 days after construction activity has temporarily or permanently ceased, final vegetative stabilization measures must be initiated as soon as practicable.

E. A combination of sediment and erosion control measures are required to achieve maximum pollutant removal.

1. Sediment Basins: For common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from the drainage area from a 2-year, 24-hour storm, or equivalent control measures, must be provided where attainable until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, must be provided where attainable until final stabilization of the site. When computing the number of acres draining into a common location, it is not necessary to include flows from offsite areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. In determining whether installing a sediment basin is attainable, the operator may consider factors such as site soils, slope, available area on-site, etc. In any event, the operator must consider public safety, especially as it relates to children, as a design factor for the sediment basin, and alternative sediment controls must be used where site limitations would preclude a safe design.

2. For drainage locations which serve 10 or more disturbed acres at one time and where a temporary sediment basin or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions).

3. For drainage locations serving less than 10 acres, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for a calculated volume of runoff from a 2-year, 24-hour storm or 3,600 cubic feet of storage per acre drained is provided.

F. Velocity dissipation devices must be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

3.14 Documentation of Permit Eligibility Related to Total Maximum Daily Loads

The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have an EPA-established or approved TMDL, including:

A. Identification of whether your discharge is identified, either specifically or generally, in an EPA-established or approved TMDL and any associated allocations, requirements, and assumptions identified for your discharge;

B. Summaries of consultation with State or Federal TMDL authorities on consistency of SWPPP conditions with the approved TMDL, and

C. Measures taken by you to ensure that your discharge of pollutants from the site is consistent with the assumptions and requirements of the EPA-established or approved TMDL, including any specific wasteload allocation that has been established that would apply to your discharge.

See section 1.3.C.5 for further information on determining permit eligibility related to TMDLs.

PART 4: SPECIAL CONDITIONS, MANAGEMENT PRACTICES AND OTHER NON-NUMERIC LIMITATIONS

4.1 Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect. If you were granted permit coverage prior to the expiration date, you will automatically remain covered by the continued permit until the earliest of:

A. Reissuance or replacement of this permit, at which time you must comply with the conditions of the new permit to maintain authorization to discharge; or

B. Your submittal of a Notice of Termination; or

C. Issuance of an individual permit for the project's discharges; or

D. A formal permit decision by EPA to not reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

4.2 Requiring an Individual Permit or an Alternative General Permit

A. EPA may require you to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition EPA to take action under this paragraph. If EPA requires you to apply for an individual NPDES permit, EPA will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and an application form. In addition, if you are an existing permittee covered under this permit, the notice will set a deadline to file the application, and will include a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to you, coverage under this general permit will automatically terminate. Applications must be submitted to EPA at the applicable EPA Regional offices listed in Appendix B of this permit. EPA may grant additional time to submit the application upon your request. If you are covered under this permit and you fail to submit in a timely manner an individual NPDES permit application as required by EPA, then the applicability of this permit to you is automatically terminated at the end of the day specified by EPA as the deadline for application submittal.

B. You may request to be excluded from the coverage of this general permit by applying for an individual permit. In such a case, you must submit an individual application in accordance with the requirements of 40 CFR §122.26(c)(1)(ii), with reasons supporting the request, to EPA at the applicable EPA Regional office listed in Appendix B of this permit. The request may be granted by issuance of an individual permit or an alternative general permit if your reasons are adequate to support the request.

C. When an individual NPDES permit is issued to you, who are otherwise subject to this permit, or you are authorized to discharge under an alternative NPDES general permit, the applicability of this permit to you is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. If you, who are otherwise subject to this permit, are denied an individual NPDES permit or an alternative NPDES general permit, the applicability of this permit to you is automatically terminated on the date of such denial, unless otherwise specified by EPA.

4.3 Releases in Excess of Reportable Quantities

The discharge of hazardous substances or oil in storm water discharges from the construction site must be prevented or minimized in accordance with the SWPPP. This permit does not relieve you of the federal reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 relating to spills or other releases of oils or hazardous substances.

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117 or 40 CFR Part 302, occurs during a 24-hour period:

- you must provide notice to the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area call 202–426–2675) in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 as soon as site staff have knowledge of the discharge; and
- you must modify the SWPPP as required under Subpart 3.11 within 7 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. Plans must identify measures to prevent the reoccurrence of such releases and to respond to such releases.

4.4 Spills

This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

4.5 Attainment of Water Quality Standards After Authorization

A. You must select, install, implement and maintain BMPs at your construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general, except in situations explained in Subpart 4.5.B below, your SWPPP developed, implemented, and updated consistent with Part 3.0 is considered as stringent as necessary to ensure that your discharges do not cause or contribute to an excursion above any applicable water quality standard.

B. At any time after authorization, EPA may determine that your storm water discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, EPA will require you to:

   i. Develop a supplemental BMP action plan describing SWPPP modifications in accordance with Subpart 3.11 to address adequately the identified water quality concerns;

   ii. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or

   iii. Cease discharges of pollutants from construction activity and submit an individual permit application according to Subpart 4.2.

   All written responses required under this part must include a signed certification consistent with Appendix G, Section 11.

PART 5: TERMINATION OF COVERAGE

5.1 Requirements

You may only submit a Notice of Termination (NOT) after one or more of the following conditions have been met:

A. Final stabilization has been achieved on all portions of the site for which you are responsible;

B. Another operator has assumed control according to Appendix G, Section 11.C over all areas of the site that have not been finally stabilized;

C. Coverage under an individual or alternative general NPDES permit has been obtained; or

D. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

The NOT must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates at midnight of the day the NOT is signed.

5.2 Submitting a Notice of Termination

It is your responsibility to submit a complete and accurate Notice of Termination (NOT), using the form provided in Appendix F (or a photocopy thereof) available at www.epa.gov/npdes/stormwater/cgp. If EPA notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOT form options (e.g., electronic submission), you may take advantage of those options to satisfy the requirements of Part 5.

A. The Notice of Termination must include the following information:

1. The NPDES permit tracking number for the storm water discharge;
2. The basis for submission of the NOT, including: final stabilization has been achieved on all portions of the site for which the permittee is responsible; another operator/permittee has assumed control over all areas of the site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or, for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner;
3. You, the operator's name, address, telephone number and your organization's Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
4. The name of the project and address (or a description of location if no street address is available) of the construction site for which the notification is submitted; and
5. A certification statement, signed and dated by an authorized representative as defined in Appendix G, Section 11 and the name and title of that authorized representative.

5.3 Where to Submit

A. All NOTs must be submitted to one of the following addresses:

For Regular U.S. Mail Delivery:
EPA Storm Water Notice Processing Center
Mail Code 4203M
U.S. EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460

For Overnight/Express Mail Delivery:
EPA Storm Water Notice Processing Center
Room 7420
U.S. EPA
1201 Constitution Avenue, NW
Washington, DC 20004

B. In lieu of Subpart 5.3.A, you can submit your NOT to EPA using EPA's electronic system (i.e., eNOI), when available. Check www.epa.gov/npdes/stormwater/cgp for updates.

PART 6: RETENTION OF RECORDS

Copies of the SWPPP and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit, must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request of EPA at any time.

PART 7: REOPENER CLAUSE

7.1 Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to 40 CFR §122.62, §122.63, §122.64 and §124.5.

7.2 Water Quality Protection

If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, you may be required to obtain an individual permit in accordance with Part 4.5 of this permit, or the permit may be modified to include different limitations and/or requirements.

7.3 Timing of Permit Modification

EPA may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines, that may be promulgated in the course of the current permit cycle.

PART 8: STANDARD PERMIT CONDITIONS

The federal regulations require that the Standard Conditions provisioned at 40 CFR §122.41 be applied to all NPDES permits. You are required to comply with those Standard Conditions, details of which are provided in Appendix G.

PART 9: PERMIT CONDITIONS APPLICABLE TO SPECIFIC STATES, INDIAN COUNTRY, OR TERRITORIES

The provisions of this Part provide modifications or additions to the applicable conditions of this permit to reflect specific additional conditions required as part of the state or tribal CWA Section 401 certification process, or the Coastal Zone Management Act (CZMA) certification process, or as otherwise established by the permitting authority. The specific additional revisions and requirements only apply to activities in those specific states, Indian country, and federal facilities. States, Indian country, and federal facilities not included in this Part do not have any modifications or additions to the applicable conditions of this permit.

State Coastal Zone Management Act (CZMA) certification was not received from Massachusetts in time for that state to be included in this permit. As such, large construction activities in Massachusetts covered under the 1998 CGP will continue to be covered under that permit. EPA will reissue the CGP for Massachusetts for large and small construction activities at a later date, and will include any state-specific modifications or additions as part of the State's CZMA certification process.

A. Region 1

1. MAR100000: Commonwealth of Massachusetts, except Indian country

   a. State Water Quality Statutes, Regulations, and Policies:

      i. You must comply with the Massachusetts Clean Waters Act (Ch. 21, ss. 23-56).

      ii. You must comply with the conditions in 314 CMR 4.00 - Surface Water Quality Standards.

      iii. You must comply with the conditions in 314 CMR 3.00 - Surface Water Discharge Permit Program.

      iv. You must comply with the Wetlands Protection Act, Ch. 131, s. 40 and its regulations, 310 CMR 10.00 and any order of Conditions issued by a Conservation Commission or a Superseding Order of Conditions issued by the Massachusetts Department of Environmental Protection.

   b. Department of Environmental Protection Storm Water Management Policy:

      i. You must comply with the Massachusetts Storm Water Management Policy, March 1997 and applicable Storm Water Performance Standards, as prescribed by state regulations promulgated under the authority of the Massachusetts Clean Waters Act, MGL Ch. 21, ss. 23-56 and the Wetlands Protection Act Ch. 131, s. 40.

   c. Other State Environmental Laws, Regulations, Policies:

      i. You must comply with the Massachusetts Endangered Species Act [MESA] (MGL Ch. 313A and regulations at 321 CMR 10.00) and any actions undertaken to comply with this storm water permit, shall not result in non-compliance with the MESA.

      ii. You must not conduct activities under this permit that will interfere with implementation of mosquito control work conducted in accordance with Chapter 252 including, s. 5A thereunder and DEP Guideline Number BRP G01-02, West Nile Virus Application of Pesticides to Wetland Resource Areas and Buffer Zones, and Public Water Systems.

   d. Other Department Directives:

      i. The Department may require you to perform water quality monitoring during the permit term if monitoring is necessary for the protection of public health or the environment as designated under the authority at 314 CMR 3.00.

      ii. The Department may require you to provide measurable verification of the effectiveness of BMPs and other control measures in your management program, including water quality monitoring.

      iii. The Department has determined that compliance with this permit does not protect you from enforcement actions deemed necessary by the Department under its associated regulations to address an imminent threat to the public health or a significant adverse environmental impact which results in a violation of the Massachusetts Clean Waters Act, Ch. 21, ss. 26-53.

      iv. The Department reserves the right to modify the 401 Water Quality Certification if any changes, modifications or deletions are made to the general permit. In addition, the Department reserves the right to add and/or alter the terms and conditions of its 401 Water Quality Certification to carry out its responsibilities during the term of this permit with respect to water quality, including any revisions to 314 CMR 4.00, Surface Water Quality Standards.

   e. Permit Compliance

      i. Should any violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) or the conditions of this certification occur, the Department will direct you to correct the violations(s). The Department has the right to take any action as authorized by the General Laws of the Commonwealth to address the violation of this permit or the MA Clean Waters Act and the regulations promulgated thereunder. Substantial civil and criminal penalties are authorized under MGL Ch. 21, s. 42 for discharging into Massachusetts' waters in violation of an order or permit issued by this Department. This certification does not relieve the you of the duty to comply with other applicable Massachusetts statutes and regulations.

2. NHR100000: State of New Hampshire

   a. If you disturb 100,000 square feet or more of contiguous area, you must also apply for a "Significant Alteration of the Terrain Permit from DES pursuant to RSA 485-A:17 and Env-Ws 415. This requirement

applies to the disturbances of only 50,000 square feet when construction occurs within the protected shoreline (see RSA 483-B and Env-Ws 1400).

b. You must determine that any excavation dewatering discharges are not contaminated before they will be authorized as an allowable non-storm water discharge under this permit (see Subpart 1.3.B). The water is considered uncontaminated if there is no groundwater contamination within 1,000 feet of the discharge. Information on groundwater contamination can be generated over the Internet via the NHDES web site www.des.state.nh.us (One Stop Data Retrieval, Onestop Master Site Table). The web site also provides E-mail access to an NHDES Site Remediation Contact to answer questions about using the Web site.

c. You must treat any uncontaminated excavation dewatering discharges as necessary to remove suspended solids and turbidity. The discharges must be sampled at a location prior to mixing with storm water at least once per week during weeks when discharges occur. The samples must be analyzed for total suspended solids (TSS) and must meet monthly average and maximum daily TSS limitations of 50 milligrams per liter (mg/L) and 100 mg/L, respectively. TSS (a.k.a. Residue, Nonfilterable) analysis and sampling must be performed in accordance with Tables IB (parameter, units and method) and II (required containers, preservation techniques and holding times) in 40 CFR 136.3 (see: http://www.access.gpo.gov/nara/cfr/waisidx_02/40cfr136_02.html). Records of any sampling and analysis must be maintained and kept with the SWPPP for at least three years after final site stabilization.

d. During site design and preparation of the storm water pollution prevention plan (SWPPP), you must consider opportunities for groundwater recharge using on-site infiltration. The SWPPP must include a description of any on-site infiltration that will be installed as a post construction storm water management measure (see Subpart 3.4.E) or reasons for not employing such measures. For design considerations for infiltration measures see the September 2001 DES publication titled “Managing Storm Water as a Valuable Resource” which is available online at: www.des.state.nh.us/StormWater/construction.htm. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures wherever feasible.

B. Region 2

1. NYR10000I: Indian country within the State of New York

St. Regis Mohawk Territory at Akwesasne

a. NOIs shall also be submitted to the St. Regis Mohawk Tribe, Environment Division, at the same time they are submitted to EPA, at the following address:

St. Regis Mohawk Tribe, Environment Division
412 State Route 37
Akwesasne, NY 13655
Attn: Clean Water Program Manager.

b. In addition, Storm Water Pollution Prevention Plans (and any updates or amendments thereto) must be submitted to the Environment Division and to the Tribal Historic Preservation Officer at least thirty (30) days in advance of corresponding Notices of Intent. This will allow the Environment Division and the THPO to make an informed determination as to whether any proposed discharges might adversely impact the quality of its surface or groundwater, or disturb sites of historic or cultural significance to the Tribe that may be listed, or eligible to be listed, on the National Register of Historic Places.

c. Within 10 days of the inspection required under Subpart 3.10.G of this permit, the permittee shall provide a copy of the Inspection Report to the Environment Division.

C. Region 6

1. NMR150000: The State of New Mexico, except Indian country

NOTE: Conditions in the New Mexico Environment Department (NMED) certification of the permit resulted in permit requirements adding further restrictions on eligibility for discharges to Outstanding National Resource Waters (ONRWs), expanding on requirements for pollution prevention plans, and limiting options provided in the permit related to inspection frequency and final stabilization.

a. In addition to all other provisions of this permit, operators who intend to obtain authorization under this permit for all new storm water discharges must satisfy the conditions in Subpart 9.C.1.a.i, unless a TMDL has been established for the receiving stream which specifies a waste load allocation (WLA) for

construction storm water discharges or the receiving stream is a Tier 3 water, in which case Subpart 9.C.1.a.ii applies.

i. The operator must include a Sediment Control Plan (SCP) as a part of the Storm Water Pollution Prevention Plan (SWPPP). The SCP must include site-specific interim and permanent stabilization, managerial, and structural solids, erosion, and sediment control BMPs and/or other controls that are designed to prevent an increase in the sediment yield and flow velocity from pre-construction, undisturbed conditions. This applies to discharges both during construction and after construction operations have been completed. The SCP must identify, and document the rationale for selecting these BMPs and/or other controls. The SCP must also describe design specifications, construction specifications, maintenance schedules (including a long term maintenance plan), criteria for inspections, as well as expected performance and longevity of the BMPs. Using appropriate soil loss prediction models (such as SEDCAD 4.0, RUSLE, SEDIMONT II, MULTISED, etc.), the operator(s) must demonstrate, and include documentation in the SCP, that implementation of the site-specific practices will result in sediment yields that will not be greater than the sediment yield levels from pre-construction, undisturbed conditions. The SCP must be prepared in accordance with good engineering practices and certified by a registered professional engineer. The operator(s) must design, implement, and maintain BMPs in the manner specified in the SCP and the SWPPP.

ii. Operators are not eligible to obtain authorization under this permit for all new storm water discharges to outstanding national resource waters (ONRWs) (also referred to as "Tier 3: waters). According to the Antidegradation Policy at Paragraph 3 of Subsection A of 20.6.4.8 NMAC, in part, "ONRWs may include, but are not limited to, surface waters of the state within national and state monuments, parks, wildlife refuges, waters of exceptional recreational or ecological significance, and waters identified under the Wild and Scenic Rivers Act." No ONRWs exist at the time this permit is being finalized; however, during the term of the permit, if a receiving water is designated as an ONRW, the operator must obtain an individual permit for storm water discharges from large and small construction activities.

b. Storm water discharges associated with industrial activity to Clean Water Act section 303(d) waters as well as all other "waters of the State" that the New Mexico Environment Department, Surface Waters Quality Bureau (SWQB) has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard and/or that do not comply with the applicable anti-degradation provisions of the State's WQS are not authorized by this permit.

Note: Upon receipt of this determination, NMED anticipates that, within a reasonable period of time, EPA will notify the general permittee to apply for and obtain an individual NPDES permit for these discharges per 40 CFR Part 122.28(b)(3).

c. Inspections required under Subpart 3.10 must be conducted at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. The option for inspections at least once per 7 calendar days is not available. The Inspection Waivers provided in Parts 3.10.B and C still apply.

d. Permittees can not use temporary erosion controls as described in item 3 of the Appendix A definition of "Final Stabilization"as a method for final stabilization under the permit.

e. Signed copies of discharge monitoring reports, individual permit applications, and all other reports required by the permit to be submitted, shall also be sent to:

Program Manager
Point Source Regulation Section
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502

2. NMR15000I: Indian country within the State of New Mexico, except Navajo Reservation Lands that are covered under Arizona permit AZR10000I and Ute Mountain Reservation Lands that are covered under Colorado permit COR10000I

a. *Pueblo of Acoma* The following conditions apply only to discharges on the Pueblo of Acoma.

i. A copy of the storm water pollution prevention plan, Notice of Intent, and Notice of Termination must be submitted to the Haaku Water Office at the address below. The pollution prevention plan must be submitted to the Pueblo at least thirty (30) days in advance of submitting the Notice of Intent to EPA.

HAAKU WATER OFFICE
Pueblo of Acoma
P.O. Box 309
Pueblo of Acoma, NM 87034

b. *Pueblo of Isleta* The following conditions apply only to discharges on the Pueblo of Isleta.

i. Subpart 1.3.C.4, (Eligibility, Limitations on Coverage) first sentence, is revised to read: "This permit does not authorize discharges that EPA or the Pueblo of Isleta, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard or impairment of a designated use of receiving waters."

ii. Subpart 2.4. (Where to Submit) is amended to add the following section (2.4.C):

C. Copies of all Notices of Intent submitted to EPA must also be sent concurrently to the Pueblo of Isleta at the following address. Discharges are not authorized by this permit unless an accurate and complete Notice of Intent has been submitted to the Pueblo of Islet

Regular U.S. Mail Delivery	OR	Overnight/Express Mail Delivery
Environment Department Pueblo of Isleta P.O. Box 1270 Isleta, NM 87022		Environment Department Building L 11000 Broadway, SE Albuquerque, NM 87105

iii. Part 2 (Authorizations for Discharges of Storm Water from Construction Activity), second sentence, is amended to read: " Discharges are not authorized if your NOI is incomplete or inaccurate, if you failed to submit a copy of the NOI to the Pueblo of Isleta, or if you were never eligible for permit coverage.

iv. Subpart 3.4. (Pollution Prevention Plan Contents: Controls to Reduce Pollutants), section A, last sentence, is amended to read: "For each major activity identified in the project description the SWPPP must clearly describe appropriate control measures, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation and maintenance."

v. Subpart 3.8 (Copy of Permit Requirements), first sentence, is revised to read "Copies of this permit and of the signed and certified NOI form that was submitted to the Pueblo of Isleta and EPA must be included in the SWPPP."

vi. Subpart 3.10.(Inspections), section A is revised to read "Inspections must be conducted at least once every 7 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater."

vii. Subpart 3.10. (Inspections), section G, last paragraph, is amended to add: "Copies of inspection reports that identify incidents of noncompliance shall be sent to Pueblo of Isleta at the address listed in Subpart 2.4.C." (See above)

viii. Subpart 3.12. (Signature, Plan Review and Making Plans Available), section A, first sentence is amended to read: "A copy of the SWPPP (including a copy of the permit) must be retained at the construction site (or other location easily accessible during normal business hours to the Pueblo of Isleta's Environmental Department, EPA, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service) from the date of commencement of construction activities to the date of final stabilization."

ix. Subpart 3.12. (Signature, Plan Review and Making Plans Available), section C. is amended to read: "SWPPPs must be made available upon request by EPA; representatives of the Pueblo of Isleta Environment Department, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service to the requestor. The copy of the

SWPPP that is required to be kept on-site or locally available must be made available, in its entirety, to the EPA staff and the Pueblo of Isleta's Environment Department staff for review and copying at the time of an on-site inspection.

x. Subpart 3.13. (Management Practices), section A is amended to add: "Erosion and sediment controls shall be designed to retain sediment on-site."

xi. Subpart 4.3 (Releases in Excess of Reportable Quantities), first bullet is amended to read: "you must provide notice to the Pueblo of Isleta Environment Department (505-869-5748) and the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area call 202–426–2675) in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 as soon as site staff have knowledge of the discharge; and"

xii. Subpart 4.5 (Attainment of Water Quality Standards After Authorization), is amended to add the following fourth bullet:

"You must provide the Pueblo of Isleta, at the address listed in Subpart 2.4.C, with a copy of the EPA notification, the supplemental action plan, data and certification required by EPA."

xiii. Subpart 5.3. (Where to Submit) is amended to add the following section (5.3.C):

C. Copies of all Notices of Termination submitted to EPA must also be sent concurrently to the Pueblo of Isleta at the following address.

Regular U.S. Mail Delivery	OR	Overnight/Express Mail Delivery
Environment Department Pueblo of Isleta P.O. Box 1270 Isleta, NM 87022		Environment Department Building L 11000 Broadway, SE Albuquerque, NM 87105

xiv. Any correspondence, other than NOIs and NOTs, with the Pueblo of Isleta concerning storm water discharges authorized by this permit shall sent one of the addresses in Subpart 5.3.C (see above).

xv. Appendix G, Section 9, first sentence is amended to read:

"You must allow the Pueblo of Isleta's Environment Department, EPA, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:"

xvi. Appendix G, Section 12, subsections A, B, C, F, G and H are amended to require that when you must notify EPA of an event (e.g., planned changes, anticipated noncompliance, transfers, required reporting due to potential adverse effects or environmental impacts or other noncompliance matters), the Pueblo of Isleta must also be notified.

xvii. Parties wishing to apply for an Equivalent Analysis Waiver (see Appendix D, Section C) must provide a copy of the waiver analysis to the Pueblo of Isleta at the address specified in Subpart 5.3.C (See above) at the time it is submitted to EPA.

c. *Pueblo of San Juan.* The following conditions apply only to discharges on the Pueblo of San Juan.

i. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Pueblo at the time it is provided to the Environmental Protection Agency, at the following address:

Office of Environmental Affairs
Pueblo of San Juan
P.O. Box 717
San Juan, NM 87566

ii. Appendix G, Section 10 (Monitoring and records), item D is amended to add:

"All monitoring must be conducted in accordance with the Pueblo of San Juan's Quality Assurance Project Plan."

d. *Pueblo of Sandia*. The following conditions apply only to discharges on the Pueblo of Sandia.

i. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Pueblo at the same time it is submitted to the Environmental Protection Agency.

Environment Department
Pueblo of Sandia
Box 6008
Bernalillo, NM 87004

ii. The Storm Water Pollution Prevention Plan must be available to tribal environmental personnel upon request.

iii. You must telephone the Pueblo of Sandia Environment Department at (505) 867-4533 of any noncompliance that may endanger human health or the environment within ten (10) hours of becoming aware of the circumstance.

e. *Santa Clara Pueblo*. The following conditions apply only to discharges on the Santa Clara Pueblo.

i. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Santa Clara Pueblo Office of Environmental Affairs at the same time it is submitted to the Environmental Protection Agency.

Santa Clara Pueblo
Office of Environmental Affairs
One Knee Street
P.O. Box 580
Espanola, NM 87532

f. *Pueblo of Tesuque* The following conditions apply only to discharges on the Pueblo of Tesuque.

i. A copy of the storm water pollution prevention plan, Notice of Intent, and Notice of Termination must be submitted to the Pueblo of Tesuque Environment Department at the address below. The Notice of Intent and the Notice of Termination must be submitted at the same time they are submitted to EPA. The pollution prevention plan must be submitted before the project begins. Phone: 505- 983-2667 FAX: 505-982-2331

Pueblo of Tesuque
Environment Department
Rt. 42, Box 360-T
Santa Fe, NM 87506

3. OKR15000F: Discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with oil and gas exploration, drilling, operations, and pipelines (includes SIC Groups 13 and 46, and SIC codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, 09).

a. Subpart 1.3.C. (Limitations on Coverage) is modified to add paragraphs 8 and 9 as follows:

"8. For activities located within the watershed of any Oklahoma Scenic River, including the Illinois River, Flint Creek, Barren Fork Creek, Upper Mountain Fork, Little Lee Creek, and Big Lee Creek or an water or watershed designated "ORW" (Outstanding Resource Water) in Oklahoma's Water Quality Standards, this permit may only be used to authorize discharges from temporary construction activities. Discharges from ongoing activities such as sand and gravel mining or any other mineral mining are not authorized.

9. Activities located within the watershed of any Oklahoma Scenic River, including the Illinois River, Flint Creek, Barren Fork Creek, Upper Mountain Fork, Little Lee Creek, and Big Lee Creek or an water or watershed designated "ORW" (Outstanding Resource Water) in Oklahoma's Water Quality Standards, this permit may not be used to authorize discharges from concrete or asphalt batch plants."

D. Region 8

1. MTR10000I: Indian country within the State of Montana

a. Confederated Salish and Kootenai Tribes of the Flathead Nation. The following conditions apply only for projects on the Flathead Indian Reservation:

i. The permittee must send the SWPPP to the Tribes at least 30 days before construction starts. The 30 day period will give Tribal staff time to become familiar with the project site, prepare for construction inspections and determine compliance with Tribal water quality standards, as required by the Tribe's Water Quality Management Ordinance 89B (1990) and Surface Water Quality Standards & Antidegradation Policy (1995). Copies of the SWPPP should be sent to the following address:

Confederated Salish and Kootenai Tribes
Natural Resources Department
Department Head
P.O. Box 278
Pablo, MT 59855

ii. Before submitting the Notice of Termination, permittees must clearly demonstrate to an appointed tribal staff person during an on-site inspection that requirements for site stabilization have been met and all temporary erosion control structures removed. The staff person performing the on-site inspection will be determined by the Environmental Protection Division Manager. The staff person will draft a short letter stating the stabilization requirements have been met to add to the permittees Notice of Termination submission to EPA.

iii. The permittee must send a copy of the Notice of Intent (NOI) and the Notice of Termination (NOT) to the Tribes at the same time that the NOI and NOT is sent to EPA. Copies of the NOI and NOT should be sent to the address above.

b. Fort Peck Tribes - Assiniboine & Sioux. The following conditions apply only for projects within the Fort Peck Indian Reservation:

i. The permittee must send a copy of the Notice of Intent (NOI) and the Notice of Termination (NOT) to the Tribes at the same time that the NOI and NOT is sent to EPA. Copies of the NOI and NOT should be sent to the following address:

Deb Madison
Environmental Program Manager
Fort Peck Assiniboine & Sioux Tribes
P.O. Box 1027
Poplar, MT 59255

E. Region 9

1. ASR100000: The Island of American Samoa

a. Discharges authorized by the general permit shall meet all applicable American Samoa water quality standards.

b. Permittees discharging under the general permit shall comply with all conditions of the permit.

2. AZR10000I: Indian country lands within the State of Arizona, including Navajo Reservation lands in New Mexico and Utah

a. White Mountain Apache Tribe. The following condition applies only for projects on the White Mountain Apache Reservation: All NOIs for proposed storm water discharge coverage shall be provided to the following address:

Tribal Environmental Planning Office
P.O. Box 2109
Whiteriver, AZ 85941

3. NIR100000: Commonwealth of the Northern Mariana Islands (CNMI)

a. An Earthmoving and Erosion Control Permit shall be obtained from the CNMI DEQ prior to any construction activity covered under the NPDES general permit.

b. All conditions and requirements set forth in the USEPA NPDES general permit for discharges from large and small construction must be complied with.

c. A SWPPP for storm water discharges from construction activity must be approved by the Director of the CNMI DEQ prior to the submission of the NOI to USEPA. The CNMI address for the submittal of the SWPPP for approval is:

Commonwealth of the Northern Mariana Islands
Office of the Governor
Director, Division of Environmental Quality (DEQ)
P.O. Box 501304 C.K.
Saipan, MP 96950-1304

d. An NOI to be covered by the general permit for discharges from large and small construction sites must be submitted to CNMI DEQ (use above address) and USEPA, Region 9, in the form prescribed by USEPA, accompanied by a SWPPP approval letter from CNMI DEQ.

e. The NOI must be postmarked seven (7) calendar days prior to any storm water discharges and a copy must be submitted to the Director of CNMI DEQ (use above address) no later than seven (7) calendar days prior to any stormwater discharges.

f. Copies of all monitoring reports required by the NPDES general permit must be submitted to CNMI DEQ (use above address).

g. In accordance with section 10.3(h) and (i) of the CNMI water quality standards, CNMI DEQ reserves the right to deny coverage under the general permit and to require submittal of an application for an individual NPDES permit based on a review of the NOI or other information made available to the Director.

F. Region 10

1. AKR100000: The State of Alaska, except Indian country

a. Operators of construction projects disturbing five or more acres occurring outside the Municipality of Anchorage must submit a copy of the Storm Water Pollution Prevention Plan (SWPPP) and a copy of the Notice of Intent (NOI) to the State of Alaska Department of Environmental Conservation (ADEC) for review, and shall be accompanied by the state-required fee of $400. Submittal of the SWPPP and the NOI to the ADEC should be made at the same time the NOI is submitted to the EPA.

b. Operators of publicly-funded projects disturbing five or more acres occurring within the Municipality of Anchorage must submit a copy of the SWPPP and a copy of the NOI to the ADEC for review, and shall be accompanied by the state-required fee of $400. Submittal of the SWPPP and the NOI to the ADEC should be made at the same time the NOI is submitted to the EPA.

c. Operators of construction projects disturbing at least one acre and less than five acres must submit a copy of the NOI to the ADEC at the same time it is submitted to the EPA.

d. Storm Water Pollution Prevention Plans and Notices of Intent must be submitted to ADEC at the following address:

Alaska Department of Environmental Conservation
Water Quality Permitting/Storm Water
555 Cordova Street
Anchorage, Alaska 99501

e. Operators of private construction projects disturbing one or more acres within the Municipality of Anchorage shall submit a copy of the Storm Water Pollution Prevention Plan to the Municipality at the following address:

Municipality of Anchorage, Office of Planning Development and Public Works
4700 S. Bragaw Street
P.O. Box 196650
Anchorage, Alaska 99519-6650

f. Submittal of the SWPPP to the Municipality of Anchorage should be made before or at the same time the NOI is submitted to the EPA and the ADEC and shall be accompanied by any Municipality-required fee.

2. IDR100000: The State of Idaho, except Indian country

   a. Any construction related storm water discharges to impaired water bodies on Idaho's Clean Water Act (CWA) Section 303(d) list with EPA-approved Total Maximum Daily Loads (TMDL) must be consistent with any load allocations established by the applicable TMDL.

   b. No net increase of listed pollutants is allowed in any construction related storm water discharges to an impaired water body considered "high priority" as included on Idaho's CWA Section 303(d) list that does not yet have an EPA-approved TMDL.

   c. If a TMDL has not been established for an impaired water body considered "medium priority" or "low priority" as included on Idaho's CWA Section 303(d) list, BMPs shall be employed as necessary to prohibit further impairment of the designated or existing beneficial uses.

   d. Only BMPs authorized by the appropriate designated agency as defined in the Idaho Water Quality Standards and Wastewater Treatment Requirements (IDAPA 58.01.02 et seq.), or otherwise approved by the Idaho Department of Environmental Quality, will be allowed.

   e. Use of the "Equivalent Analysis Waiver" in Addendum D is not authorized.

   f. Operators may contact the Idaho Department of Environmental Quality regional office nearest the construction activity for more information about impaired waterways:

Boise Regional Office:
1445 N. Orchard
Boise ID 83706-2239
Tel: (208)373-0550
Fax: (208)373-0287

Cascade Satellite Office:
109 N. Main St., PO Box 247
Cascade, ID 83611
Tel: (208)382-6808
Fax: (208)382-3327

Coeur d'Alene Regional Office:
2110 Ironwood Parkway
Coeur d'Alene ID 83814
Tel: (208)769-1422
Fax: (208)769-1404

Grangeville Satellite Office:
300 W. Main
Grangeville ID 83530
Tel: (208)983-0808
Fax: (208)983-2873

Idaho Falls Regional Office:
900 N. Skyline, Suite B
Idaho Falls, ID 83402
Tel: (208)528-2650
Fax: (208)528-2695

Lewiston Regional Office:
1118 "F" Street
Lewiston, ID 83501
Tel: (208)799-4370
Toll Free: 1-877-541-3304
Fax: (208)799-3451

Pocatello Regional Office:
444 Hospital Way #300
Pocatello ID 83201
Tel: (208)236-6160
Fax: (208)236-6168

Twin Falls Regional Office:
601 Pole Line Road, Suite 2
Twin Falls, ID 83301
Tel: (208)736-2190
Fax: (208)736-2194

3. ORR10000I: Indian country within the State of Oregon, except Fort McDermitt Reservation lands (see Region 9):

   a. Confederated Tribes of the Umatilla Indian Reservation. The following conditions apply only for projects within the exterior boundaries of the Umatilla Indian Reservation:

      i. The operator shall be responsible for achieving compliance with the Confederated Tribes of the Umatilla Indian Reservation's (CTUIR) Water Quality Standards.

      ii. The operator shall submit all Erosion Control and/or Storm Water Pollution Prevention Plans to the CTUIR Water Resources Program for review and approval by the Department of Natural Resources Director prior to submitting the Notice of Intent to EPA and prior to beginning any discharge activities.

      iii. The operator shall contact the CTUIR Tribal Historic Preservation Office (THPO) prior to beginning any construction activities to determine whether a cultural resource survey of the project area or other investigation is required. All cultural resource fieldwork must be conducted by qualified personnel and documented using Oregon Reporting Standards. The resulting report must be submitted to the THPO for concurrence at least 30 days before any ground disturbing work can occur at the site. The operator must obtain THPO concurrence in the form of a letter, which (if necessary) will include any measures that must be taken to prevent or mitigate adverse effects to potentially eligible historic properties, prior to any ground disturbing work.

      iv. The operator shall submit copies of the Notice of Intent to the CTUIR Water Resources Program and the CTUIR Tribal Historic Preservation Office at the same time it is submitted to EPA.

v. Erosion Control and Storm Water Pollution Prevention Plans and Notices of Intent shall be submitted to:

Confederated Tribes of the Umatilla Indian Reservation
Water Resources Program
P.O. Box 638
Pendleton, OR 97801
(541) 276-3447

Confederated Tribes of the Umatilla Indian Reservation
Cultural Resources Protection Program
Tribal Historic Preservation Office
P.O. Box 638
Pendleton, OR 97801
(541) 276-3629

b. Confederated Tribes of Warm Springs. The following conditions apply only for projects on the Warm Springs Indian Reservation:

i. All activities covered by this NPDES general permit occurring within a designated riparian buffer zone as established in Ordinance 74 (Integrated Resource Management Plan or IRMP) must be reviewed, approved and permitted through the Tribe's Hydraulic Permit Application process, including payment of any applicable fees.

ii. All activities covered by this NPDES general permit must follow all applicable land management and resource conservation requirements specified in the IRMP.

iii. Operators of activities covered by this NPDES general permit must submit a Storm Water Pollution Prevention Plan to the Tribe's Water Control Board at the following address for approval at least 30 days prior to beginning construction activity:

Chair, Warm Springs Water Control Board
P.O. Box C
Warm Springs, Oregon 97761

4. WAR10000F: Federal Facilities in the State of Washington, except those located on Indian Country

The following conditions apply to stormwater discharges from all permitted construction sites which disturb one acre or more and which discharge to surface waters (40 CFR part 122.26(b)(14)(x) and 122.26 (b)(15)):

a. Discharges must not cause or contribute to a violation of surface water quality standards (Chapter 173-201A WAC), sediment management standards (Chapter 173-204 WAC), ground water quality standards (Chapter 173-200 WAC), and human health-based criteria in the National Toxics Rule (Federal Register, Vol. 57, No. 246, Dec. 22, 1992, pages 60848-60923). Discharges that are not in compliance with these standards are not authorized.

b. You must apply all known available and reasonable methods of prevention, control and treatment (AKART), including the preparation and implementation of an adequate Stormwater Pollution Prevention Plan (SWPPP), with all appropriate BMPs installed and maintained in accordance with the SWPPP and the terms and conditions of this permit.

c. Stormwater BMPs must be properly designed, constructed, maintained and operated to:

i. Prevent pollution of state waters and protect water quality, including compliance with applicable state water quality standards;

ii. Satisfy state requirements for all known available and reasonable methods of prevention, control and treatment (AKART) of wastes (including construction stormwater runoff) prior to discharge to waters of the state; and

iii. Satisfy the federal technology-based treatment requirements under 40 CFR part 125.3.

d. You must document the technical basis for the design criteria used to select and design your stormwater management BMPs. You must document within your Stormwater Pollution Prevention Plan (SWPPP) how stormwater BMPs were selected, the pollutant removal performance expected from the BMP being selected, the technical basis (scientific, technical studies, and/or modeling) which support the performance claims for the BMPs being selected, and an assessment of how the selected BMP will

comply with state water quality standards, satisfy the state AKART requirements, and satisfy the federal technology-based treatment requirements.

If you choose to follow the stormwater management practices contained in stormwater technical manuals approved by Washington State, including the proper selection, implementation and maintenance of appropriate BMPs, you are presumed to have satisfied this demonstration requirement and do not need to include within the SWPPP the technical basis which support the performance claims for the BMPs being used. The SWPPP must include a reference to the manual used. Approved stormwater technical manuals include:

i. Stormwater Management Manual for Western Washington, August 2001, for sites west of the crest of the Cascade Mountains;

ii. Stormwater Management Manual for Eastern Washington, (completion expected in the fall of 2003) for sites east of the crest of the Cascade Mountains; or

iii. Other equivalent stormwater management guidance documents approved by Ecology.

e. Stormwater discharges from construction sites which disturb 5 acres or more (40 CFR part 122.26(b)(14)(x)) and which discharge to surface waters listed as impaired by the state under Section 303(d) of the Clean Water Act for turbidity, fine sediment, high pH, and/or phosphorus are subject to an effluent limitation that is equal to the applicable water quality standards at the point of discharge. If impairment is due to turbidity and/or fine sediment, the turbidity at the point of discharge shall not exceed the background (upstream) turbidity of the receiving water.

i. Effluent limitations apply to direct discharges to listed waterbodies as well as indirect discharges via a stormwater conveyance system.

ii. All references and requirements associated with Section 303(d) of the Clean Water Act shall use the most current listing by Ecology of impaired waters that exists at the time of application for coverage under this permit

f. Stormwater discharges from construction sites which disturb 5 acres or more (40 CFR part 122.26(b)(14)(x)) and which discharge to surface waters for which there is a total maximum daily load (TMDL) allocation or other control plan that addresses sediment (including turbidity, fine sediment, total suspended solids or siltation), high pH, or phosphorus must be consistent with the requirements in the approved TMDL or applicable control plan. Control plans may be total maximum daily load (TMDL) determinations, restrictions for the protection of endangered species, ground water management plans, or other limitations that regulate or set limits on discharges to a specific waterbody or groundwater recharge area.

Information on impaired waterways is available from the Department of Ecology web site at: http://www.ecy.wa.gov/programs/wq/stormwater. You may also contact the Department of Ecology for more information about impaired waterways at:

Mailing Address:
Department of Ecology
Stormwater Unit
PO Box 47600
Olympia, WA 98504-7600
Phone: 360-407-6000

Physical Address:
Department of Ecology
300 Desmond Drive
Lacey, WA 98503
Phone: 360-407-6000

5. WAR10000I: Indian country within the State of Washington

a. Puyallup Tribe of Indians. The following conditions apply only for projects on the Puyallup Reservation:

i. Each operator shall be responsible for achieving compliance with the Puyallup Tribe's Water Quality Standards.

ii. Each operator shall submit all Pollution Prevention Plans to the Puyallup Tribe Environmental Department for review and approval prior to beginning any discharge activities.

iii. Each operator shall submit a copy of the Notice of Intent to the Puyallup Tribal Environmental Department at the same time it is submitted to EPA.

iv. Storm Water Pollution Prevention Plans and Notices of Intent shall be submitted to:

Puyallup Tribe Natural Resources, Environmental Department
1850 Alexander Avenue
Tacoma, WA 98421

b. Confederated Tribes of the Chehalis Reservation. The following conditions apply only for projects on the Chehalis Reservation:

i. The operator shall be responsible for achieving compliance with the Chehalis Tribe's Water Quality Standards.

ii. The operator shall submit a Storm Water Pollution Prevention Plan to the Chehalis Tribe Department of Natural Resources for review and approval at least thirty (30) days prior to beginning any discharge activities.

iii. The operator shall submit a copy of the Notice of Intent to the Chehalis Tribe Department of Natural Resources at the same time it is submitted to EPA.

iv. Storm Water Pollution Prevention Plans and Notices of Intent shall be submitted to:

Chehalis Tribe Department of Natural Resources
420 Howanut Road
Oakville, WA 98568

Appendix A - Definitions and Acronyms

Definitions

“Arid Areas” means areas with an average annual rainfall of 0 to 10 inches.

“Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

“Commencement of Construction Activities” means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities (e.g., stockpiling of fill material).

“Control Measure” as used in this permit, refers to any BMP or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

“CWA” means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

“Discharge” when used without qualification means the ‘‘discharge of a pollutant.’’

“Discharge of Storm Water Associated with Construction Activity” as used in this permit, refers to a discharge of pollutants in storm water from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

“Eligible” means qualified for authorization to discharge storm water under this general permit.

“Facility” or “Activity” means any “point source” or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

“Federal Facility” means any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal government.

“Final Stabilization” means that:

1. All soil disturbing activities at the site have been completed and either of the two following criteria are met:
    a. a uniform (e.g,, evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
    b. equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
2. When background native vegetation will cover less than 100 percent of the ground (e.g., arid areas, beaches), the 70 percent coverage criteria is adjusted as follows: if the native vegetation covers 50 percent of the ground, 70 percent of 50 percent (0.70 X 0.50 = 0.35) would require 35 percent total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.
3. In arid and semi-arid areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:
    a. Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by you,
    b. The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.
4. For individual lots in residential construction, final stabilization means that either:
    a. The homebuilder has completed final stabilization as specified above, or

b. The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.

5. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to ‘‘water of the United States,’’ and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (1) or (2) or (3) above.

“Indian country” is defined at 40 CFR §122.2 to mean:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and
3. All Indian allotments, the Indian titles to which have not been extinquished, including rights-of-ways running through the same.

“Large Construction Activity” is defined at 40 CFR §122.26(b)(14)(x) and incorporated here by reference. A large construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land or will disturb less than five acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

“Municipal Separate Storm Sewer System” or “MS4" is defined at 40 CFR §122.26(b)(8) to mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

“New Project” means the “commencement of construction activities” occurs after the effective date of this permit.

“Ongoing Project” means the “commencement of construction activities” occurs before the effective date of this permit.

“Operator” for the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform permittees of EPA’s interpretation of how the regulatory definitions of ‘‘owner or operator’’ and ‘‘facility or activity’’ are applied to discharges of storm water associated with construction activity.

“Owner or operator” means the owner or operator of any ‘‘facility or activity’’ subject to regulation under the NPDES program.

"Permitting Authority" means the United States Environmental Protection Agency, EPA, a Regional Administrator of the Environmental Protection Agency or an authorized representative.

"Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

"Pollutant" is defined at 40 CFR §122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

"Project Area" means:

- The areas on the construction site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity. (Example: 1. Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity or where grading causes storm water to flow into a small wetland or other habitat that is on the site that contains listed species.)
- The areas where storm water discharges flow from the construction site to the point of discharge into receiving waters. (Example: Where storm water flows into a ditch, swale, or gully that leads to receiving waters and where listed species (such as amphibians) are found in the ditch, swale, or gully.)
- The areas where storm water from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge. (Example: Where storm water from construction activities discharges into a stream segment that is known to harbor listed aquatic species.)
- The areas where storm water BMPs will be constructed and operated, including any areas where storm water flows to and from BMPs. (Example: Where a storm water retention pond would be built.)
- The areas upstream and /or downstream from construction activities discharges into a stream segment that may be affected by the said discharges. (Example: Where sediment discharged to a receiving stream settles downstream and impacts a breeding area of a listed aquatic species.)

"Receiving water" means the "Water of the United States" as defined in 40 CFR §122.2 into which the regulated storm water discharges.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Semi-Arid Areas" means areas with an average annual rainfall of 10 to 20 inches.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Small Construction Activity" is defined at 40 CFR §122.26(b)(15) and incorporated here by reference. A small construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than one (1) acre and less than five (5) acres of land or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water Discharge-Related Activities" as used in this permit, include: activities that cause, contribute to, or result in storm water point source pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; and measures to control storm water including the siting, construction and operation of BMPs to control, reduce or prevent storm water pollution.

"Total Maximum Daily Load" or "TMDL" means the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

"Waters of the United States" is as defined at 40 CFR §122.2.

"Wetland" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

ACRONYMS

BMP - Best Management Practices

CGP - Construction General Permit

CFR - Code of Federal Regulations

CWA - Clean Water Act

EPA - United States Environmental Protection Agency

ESA - Endangered Species Act

FWS - United States Fish and Wildlife Service

MS4 - Municipal Separate Storm Sewer System

MSGP - Multi-Sector General Permit

NHPA - National Historic Preservation Act

NMFS - United States National Marine Fisheries Service

NOI - Notice of Intent

NOT - Notice of Termination

NPDES - National Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works

SHPO - State Historic Preservation Officer

SWPPP - Storm Water Pollution Prevention Plan

THPO - Tribal Historic Preservation Officer

TMDL - Total Maximum Daily Load

WQS - Water Quality Standard

Appendix B - Permit Areas Eligible for Coverage

Permit coverage for storm water discharges from construction activity occurring within the following areas is provided by legally separate and distinctly numbered permits:

1. EPA Region 1: CT, MA, ME, NH, RI, VT

US EPA, Region 01
Office of Ecosystem Protection
NPDES Storm Water Program
1 Congress St, Suite 1100 (CMU)
Boston, MA 02114-2023

The States of Connecticut, Maine, Rhode Island, and Vermont are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
MAR100000	Commonwealth of Massachusetts (except Indian country)
MAR10000I	Indian country within the State of Massachusetts
CTR10000I	Indian country within the State of Connecticut
NHR100000	State of New Hampshire
RIR10000I	Indian country within the State of Rhode Island
VTR10000F	Federal Facilities in the State of Vermont
MER10000I	Indian country within the State of Maine

2. EPA Region 2: NJ, NY, PR, VI

For NJ, NY, and VI:

US EPA, Region 02
NPDES Storm Water Program
290 Broadway, 24th Floor
New York, NY 10007-1866

For PR:

US EPA, Region 02
Caribbean Environmental Protection Division
NPDES Storm Water Program
1492 Ponce de Leon Ave
Central Europa Building, Suite 417
San Juan, PR 00907-4127

The State of New York is the NPDES Permitting Authority for the majority of discharges within its state. The State of New Jersey and the Virgin Islands are the NPDES Permitting Authority for all discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
NYR10000I	Indian country within the State of New York
PRR100000	The Commonwealth of Puerto Rico

3. EPA Region 3: DE, DC, MD, PA, VA, WV

US EPA, Region 03
NPDES Storm Water Program
1650 Arch St
Philadelphia, PA 19103

The State of Delaware is the NPDES Permitting Authority for the majority of discharges within its state. Maryland, Pennsylvania, Virginia, and West Virginia are the NPDES Permitting Authority for all discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
DCR100000	The District of Columbia
DER10000F	Federal Facilities in the State of Delaware

4. EPA Region 4: AL, FL, GA, KY, MS, NC, SC, TN

US EPA, Region 04
Water Management Division
NPDES Storm Water Program
61 Forsyth St SW
Atlanta, GA 30303-3104

Coverage Not Available. Construction activities in Region 4 must obtain permit coverage under an alternative permit.

5. EPA Region 5: IL, IN, MI, MN, OH, WI

US EPA, Region 05
NPDES & Technical Support
NPDES Storm Water Program
77 W Jackson Blvd
(WN-16J)
Chicago, IL 60604-3507

The States of Michigan, Minnesota, and Wisconsin are the NPDES Permitting Authority for the majority of discharges within their respective states. The States of Illinois, Indiana, and Ohio are the NPDES Permitting Authorities for all discharges within their respective states.

Permit No.	Areas of coverage/where EPA is Permitting Authority
MIR10000I	Indian country within the State of Michigan
MNR10000I	Indian country within the State of Minnesota
WIR10000I	Indian country within the State of Wisconsin, except the Sokaogon Chippewa (Mole Lake) Community.

6. EPA Region 6: AR, LA, OK, TX, NM (except see Region 9 for Navajo lands, and see Region 8 for Ute Mountain Reservation lands)

US EPA, Region 06
NPDES Storm Water Program
1445 Ross Ave, Suite 1200
Dallas, TX 75202-2733

The States of Louisiana, Oklahoma, and Texas are the NPDES Permitting Authority for the majority of discharges within their respective state. The State of Arkansas is the NPDES Permitting Authority for all discharges within its respective state.

Permit No.	Areas of coverage/where EPA is Permitting Authority
LAR15000I	Indian country within the State of Louisiana
NMR150000	The State of New Mexico, except Indian country
NMR15000I	Indian country within the State of New Mexico, except Navajo Reservation Lands that are covered under Arizona permit AZR10000I and Ute Mountain Reservation Lands that are covered under Colorado permit COR10000I.
OKR15000I	Indian country within the State of Oklahoma
OKR15000F	Discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with with oil and gas exploration, drilling, operations, and pipelines (includes SIC Groups 13 and 46, and SIC codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, 09).
TXR15000F	Discharges in the State of Texas that are not under the authority of the Texas Commission on Environmental Quality (formerly TNRCC), including activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline.
TXR15000I	Indian country within the State of Texas.

7. EPA Region 7: IA, KS, MO, NE (except see Region 8 for Pine Ridge Reservation Lands)

US EPA, Region 07
NPDES Storm Water Program
901 N 5th St
Kansas City, KS 66101

The States of Iowa, Kansas, and Nebraska are the NPDES Permitting Authority for the majority of discharges within their respective states. The State of Missouri is the NPDES Permitting Authority for all discharges within its state.

Permit No.	Areas of coverage/where EPA is Permitting Authority
IAR10000I	Indian country within the State of Iowa
KSR10000I	Indian country within the State of Kansas
NER10000I	Indian country within the State of Nebraska, except Pine Ridge Reservation lands (see Region 8)

8. EPA Region 8: CO, MT, ND, SD, WY, UT (except see Region 9 for Goshute Reservation and Navajo Reservation Lands), the Ute Mountain Reservation in NM, and the Pine Ridge Reservation in NE.

US EPA, Region 08
NPDES Storm Water Program
999 18th St, Suite 300
(EPR-EP)
Denver, CO 80202-2466

The States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of coverage/where EPA is Permitting Authority
COR10000F	Federal Facilities in the State of Colorado, except those located on Indian country
COR10000I	Indian country within the State of Colorado, as well as the portion of the Ute Mountain Reservation located in New Mexico
MTR10000I	Indian country within the State of Montana
NDR10000I	Indian country within the State of North Dakota, as well as that portion of the Standing Rock Reservation located in South Dakota (except for the portion of the lands within the former boundaries of the Lake Traverse Reservation which is covered under South Dakota permit SDR10000I listed below)
SDR10000I	Indian country within the State of South Dakota, as well as the portion of the Pine Ridge Reservation located in Nebraska and the portion of the lands within the former boundaries of the Lake Traverse Reservation located in North Dakota (except for the Standing Rock Reservation which is covered under North Dakota permit NDR10000I listed above)
UTR10000I	Indian country within the State of Utah, except Goshute and Navajo Reservation lands (see Region 9)
WYR10000I	Indian country within the State of Wyoming

9. EPA Region 9: CA, HI, NV, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Duck Valley Reservation in ID, and the Fort McDermitt Reservation in OR.

US EPA, Region 09
NPDES Storm Water Program
75 Hawthorne St
San Francisco, CA 94105-3901

The States of Arizona, California and Nevada are the NPDES Permitting Authority for the majority of discharges within their respective states. The State of Hawaii is the NPDES Permitting Authority for all discharges within its state.

Permit No.	Areas of coverage/where EPA is Permitting Authority
ASR100000	The Island of American Samoa
AZR10000I	Indian country within the State of Arizona, as well as Navajo Reservation lands in New Mexico and Utah
CAR10000I	Indian country within the State of California
GUR100000	The Island of Guam
JAR100000	Johnston Atoll
MWR100000	Midway Island and Wake Island
NIR100000	Commonwealth of the Northern Mariana Islands
NVR10000I	Indian country within the State of Nevada, as well as the Duck Valley Reservation in Idaho, the Fort McDermitt Reservation in Oregon and the Goshute Reservation in Utah

10. EPA Region 10: AK, WA, ID (except see Region 9 for Duck Valley Reservation Lands), and OR (except see Region 9 for Fort McDermitt Reservation).

US EPA, Region 10
NPDES Storm Water Program
1200 6th Ave (OW-130)
Seattle, WA 98101-1128
Phone: (206) 553-6650

The States of Oregon and Washington are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of coverage/where EPA is Permitting Authority
AKR100000	The State of Alaska, except Indian country
AKR10000I	Indian country within the state of Alaska
IDR100000	The State of Idaho, except Indian country
IDR10000I	Indian country within the State of Idaho, except Duck Valley Reservation lands (see Region 9)
ORR10000I	Indian country within the State of Oregon, except Fort McDermitt Reservation lands (see Region 9)
WAR10000F	Federal Facilities in the State of Washington, except those located on Indian country
WAR10000I	Indian country within the State of Washington

Appendix C - Endangered Species Act Review Procedures

You must meet at least one of the six criteria in Subpart 1.3.C.6 to be eligible for coverage under this permit. You must follow the procedures in this Appendix to assess the potential effects of storm water discharges and storm water discharge-related activities on listed species and their critical habitat. When evaluating these potential effects, operators must evaluate the entire project area.

For purposes of this Appendix, the term "project area" is inclusive of the term "Action Area." Action area is defined in 50 CFR §402.02 as all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action. This includes areas beyond the footprint of the construction area that may be affected by storm water discharges and storm water discharge related activities. "Project area" is defined in Appendix A.

(Operators who are eligible and able to certify eligibility under Criterion B, C, D, or F of Subpart 1.3.C.6 because of a previously issued ESA section 10 permit, a previously completed ESA section 7 consultation, or because the operator's activities were already addressed in another operator's certification of eligibility may proceed directly to Step Four.)

Step One: Determine if Listed Threatened or Endangered Species are Present On or Near Your Project Area

You must determine, to the best of your knowledge, whether listed species are located on or near your project area. To make this determination, you should:

- Determine if listed species are in your county or township. The local offices of the U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), and State or Tribal Heritage Centers often maintain lists of federally listed endangered or threatened species on their internet sites. Visit www.epa.gov/npdes/stormwater/cgp to find the appropriate site for your state or check with your local office. In most cases, these lists allow you to determine if there are listed species in your county or township.
- If there are listed species in your county or township, check to see if critical habitat has been designated and if that area overlaps or is near your project area.
- Contact your local FWS, NMFS, or State or Tribal Heritage Center to determine if the listed species could be found on or near your project area and if any critical habitat areas have been designated that overlap or are near your project area. Critical habitat areas maybe designated independently from the listed species for your county, so even if there are no listed species in your county or township, you must still contact one of the agencies mentioned above to determine if there are any critical habitat areas on or near your project area.

You can also find critical habitat designations and associated requirements at 50 CFR Parts 17 and 226. http://www.access.gpo.gov.

- If there are no listed species in your county or township, no critical habitat areas on or near your project area, or if your local FWS, NMFS, or State or Tribal Heritage Center indicates that listed species are not a concern in your part of the county or township, you may check box A on the Notice of Intent Form.
- If there are listed species and if your local FWS, NMFS, or State or Tribal Heritage Center indicates that these species could exist on or near your project area, you will need to do one or more of the following:
    - Conduct visual inspections: This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.
    - Conduct a formal biological survey. In some cases, particularly for larger construction sites with extensive storm water discharges, biological surveys may be an appropriate way to assess whether species are located on or near the project area and whether there are likely adverse effects to such species. Biological surveys are frequently performed by environmental consulting firms. A biological survey may in some cases be useful in conjunction with Steps Two, Three, or Four of these instructions.
    - Conduct an environmental assessment under the National Environmental Policy Act (NEPA). Such reviews may indicate if listed species are in proximity to the project area. Coverage under the CGP does not trigger such a review because the CGP does not regulate new sources (that is, dischargers subject to New Source Performance Standards under section 306 of the Clean Water Act), and is thus statutorily

exempted from NEPA. See CWA section 511(c). However, some construction activities might require review under NEPA for other reasons such as federal funding or other federal involvement in the project.

If listed threatened or endangered species or critical habitat are present in the project area, you must look at impacts to species and/or habitat when following Steps Two through Four. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this CGP may require measures to protect critical habitat that are separate from those to protect listed species.

Step Two: Determine if the Construction Activity's Storm Water Discharges or Storm Water Discharge-Related Activities Are Likely to Adversely Affect Listed Threatened or Endangered Species or Designated Critical Habitat

To receive CGP coverage, you must assess whether your storm water discharges or storm water discharge-related activities is likely to adversely affect listed threatened or endangered species or designated critical habitat that are present on or near your project area.

Potential adverse effects from storm water discharges and storm water discharge-related activities include:

- *Hydrological.* Storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs that can impact listed species or critical habitat.
- *Habitat.* Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of storm water BMPs, may adversely affect listed species or their habitat. Storm water may drain or inundate listed species habitat.
- *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If you are having difficulty determining whether your project is likely to adversely affect listed species or critical habitat, or one of the Services has already raised concerns to you, you must contact the appropriate office of the FWS, NMFS or Natural Heritage Center for assistance. If adverse effects are not likely, then you may check box E on the NOI form and apply for coverage under the CGP. If the discharge may adversely effect listed species or critical habitat, you must follow Step Three.

Step Three: Determine if Measures Can Be Implemented to Avoid Adverse Effects

If you make a preliminary determination that adverse effects are likely to occur, you can still receive coverage under Criterion E of Subpart 1.3.C.6 of the CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for CGP coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMPs, or by changing the "footprint" of the construction activity. You should contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate the likelihood of adverse impacts to listed species and/or critical habitat. (See 50 CFR §402.13(b)). This can entail the initiation of informal consultation with the FWS and/or NMFS (described in more detail in Step Four).

If you adopt measures to avoid or eliminate adverse affects, you must continue to abide by those measures for the duration of the construction project and coverage under the CGP. These measures must be described in the SWPPP and are enforceable CGP conditions and/or conditions for meeting the eligibility criteria in Subpart 1.3. If appropriate measures to avoid the likelihood of adverse effects are not available, you must follow Step Four.

Step Four: Determine if the Eligibility Requirements of Criterion B, C, D, or F of Subpart 1.3.C.6 Can Be Met

Where adverse effects are likely, you must contact the FWS and/or NMFS. You may still be eligible for CGP coverage if any likely adverse effects can be addressed through meeting Criterion B, C, D, or F of Subpart 1.3.C.6 of the CGP. These criteria are as follows:

1. *An ESA Section 7 Consultation Is Performed for Your Activity (See Criterion B or C of Subpart 1.3.C.6 of the CGP).*

Formal or informal ESA section 7 consultation is performed with the FWS and/or NMFS that addresses the effects of your storm water discharges and storm water discharge-related activities on federally-listed and threatened

species and designated critical habitat. FWS and/or NMFS may request that consultation take place if any actions are identified that may affect listed species or critical habitat. In order to be eligible for coverage under this permit, consultation must result in a "no jeopardy opinion" or a written concurrence by the Service(s) on a finding that your storm water discharge(s) and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat (For more information on consultation, see 50 CFR §402). If you receive a "jeopardy opinion," you may continue to work with the FWS and/or NMFS and your permitting authority to modify your project so that it will not jeopardize listed species or designated critical habitat.

Most consultations are accomplished through informal consultation. By the terms of this CGP, EPA has automatically designated operators as non-federal representatives for the purpose of conducting informal consultations. See Subpart 1.3.C.6 and 50 CFR §402.08 and §402.13. When conducting informal ESA section 7 consultation as a non-federal representative, you must follow the procedures found in 50 CFR Part 402 of the ESA regulations. You must notify FWS and/or NMFS of your intention and agreement to conduct consultation as a non-federal representative.

Consultation may occur in the context of another federal action at the construction site (e.g., where ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project that incorporates a section 7 consultation). Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, operators may, if they wish, initiate consultation with the Services at Step Four.

Whether ESA section 7 consultation must be performed with either the FWS, NMFS or both Services depends on the listed species that may be affected by the operator's activity. In general, NMFS has jurisdiction over marine, estuaries, and anadromous species. Operators should also be aware that while formal section 7 consultation provides protection from incidental takings liability, informal consultation does not.

2. *An Incidental Taking Permit Under Section 10 of the ESA is Issued for the Operators Activity (See Criterion D of Subpart 1.3.C.6 of the CGP).*

Your construction activities are authorized through the issuance of a permit under section 10 of the ESA and that authorization addresses the effects of your storm water discharge(s) and storm water discharge-related activities on federally-listed species and designated critical habitat. You must follow FWS and/or NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR §17.22(b)(1) for FWS and §222.22 for NMFS). Application instructions for section 10 permits for FWS and NMFS can be obtained by accessing the FWS and NMFS websites (http://www.fws.gov and http://www.nmfs.noaa.gov) or by contacting the appropriate FWS and NMFS regional office.

3. *You are Covered Under the Eligibility Certification of Another Operator for the Project Area (See Criterion F of Subpart 1.3.C.6 of the CGP).*

Your storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Criteria A through E of Subpart 1.3.C.6 which also included your project area. For example, a general contractor or developer may have completed and filed an NOI for the entire project area with the necessary Endangered Species Act certifications (criteria A-E), subcontractors may then rely upon that certification and must comply with any conditions resulting from that process. By certifying eligibility under Criterion F of Subpart 1.3.C.6, you agree to comply with any measures or controls upon which the other operator's certification under Criterion B, C, or D of Subpart 1.3.C.6 was based. Certification under Criterion F of Subpart 1.3.C.6 is discussed in more detail in the Fact Sheet that accompanies this permit.

You must comply with any terms and conditions imposed under the eligibility requirements of Criterion A through F to ensure that your storm water discharges and storm water discharge-related activities are protective of listed species and/or critical habitat. Such terms and conditions must be incorporated in the project's SWPPP. If the eligibility requirements of Subpart 1.3.C.6 cannot be met, then you are not eligible for coverage under the CGP. In these instances, you may consider applying to EPA for an individual permit.

Appendix D - Small Construction Waivers and Instructions

These waivers are only available to storm water discharges associated with small construction activities (i.e., 1-5 acres). As the operator of a small construction activity, you may be able to qualify for a waiver in lieu of needing to obtain coverage under this general permit based on: (A) a low rainfall erosivity factor, (B) a TMDL analysis, or (C) an equivalent analysis that determines allocations for small construction sites are not needed. Each operator, otherwise needing permit coverage, must notify EPA of its intention for a waiver. It is the responsibility of those individuals wishing to obtain a waiver from coverage under this general permit to submit a complete and accurate waiver certification as described below. Where the operator changes or another is added during the construction project, the new operator must also submit a waiver certification to be waived.

A. Rainfall Erosivity Waiver

Under this scenario the small construction project's rainfall erosivity factor calculation ("R" in the Revised Universal Soil Loss Equation) is less than 5 during the period of construction activity. The operator must certify to the Permitting Authority that construction activity will occur only when the rainfall erosivity factor is less than 5. The period of construction activity begins at initial earth disturbance and ends with final stabilization. Where vegetation will be used for final stabilization, the date of installation of a stabilization practice that will provide interim non-vegetative stabilization can be used for the end of the construction period, provided the operator commits (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization as defined in the construction general permit have been met. If use of this interim stabilization eligibility condition was relied on to qualify for the waiver, signature on the waiver with its certification statement constitutes acceptance of and commitment to complete the final stabilization process. The operator must submit a waiver certification to EPA prior to commencing construction activities.

> *Note: The rainfall erosivity factor "R" is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21–64, dated January 1997; United States Department of Agriculture (USDA), Agricultural Research Service.*

EPA funded a cooperative agreement with Texas A&M University to develop an online rainfall erosivity calculator. You can access the calculator from EPA's website at: www.epa.gov/npdes/stormwater/cgp. Use of the calculator allows you to determine potential eligibility for the rainfall erosivity waiver. It may also be useful in determining the time periods during which construction activity could be waived from permit coverage. You may find that moving your construction activity by a few weeks or expediting site stabilization will allow you to qualify for the waiver.

If you are the operator of the construction activity and eligible for a waiver based on low erosivity potential, you must provide the following information on the waiver certification in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operators;
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The rainfall erosivity factor calculation that applies to the active construction phase at your project site; and
5. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection 11, that certifies that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five.

At the time of publication, a Low Erosivity Waiver Form is not available. If EPA does create a form, it will be noticed (either directly, by public notice, or by making information available on the Internet at www.epa.gov/npdes/stormwater/cgp.

> *Note: If the R factor is 5 or greater, you cannot apply for the rainfall erosivity waiver, and must apply for permit coverage as per Subpart 2.1 of the construction general permit, unless you qualify for the Water Quality Waiver as described below.*

If your small construction project continues beyond the projected completion date given on the waiver certification, you must recalculate the rainfall erosivity factor for the new project duration. If the R factor is below five (5), you

must update all applicable information on the waiver certification and retain a copy of the revised waiver as part of the site SWPPP. The new waiver certification must be submitted prior to the projected completion date listed on the original waiver form to assure your exemption from permitting requirements is uninterrupted. If the new R factor is five (5) or above, you must submit an NOI as per Part 2.

B. TMDL Waiver

This waiver is available if EPA has established or approved a TMDL that addresses the pollutant(s) of concern and has determined that controls on storm water discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. Information on TMDLs that have been established or approved by EPA is available from EPA online at http://www.epa.gov/owow/tmdl/ and from state and tribal water quality agencies.

If you are the operator of the construction activity and eligible for a waiver based on compliance with an EPA established or approved TMDL, you must provide the following information on the Waiver Certification form in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the water body(s) that would be receiving storm water discharges from your construction project;
5. The name and approval date of the TMDL;
6. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection 11, that certifies that the construction activity will take place and that the storm water discharges will occur, within the drainage area addressed by the TMDL.

C. Equivalent Analysis Waiver

This waiver is available for non-impaired waters only. The operator can develop an equivalent analysis that determines allocations for his small construction site for the pollutant(s) of concern or determines that such allocations are not needed to protect water quality. This waiver requires a small construction operator to develop an equivalent analysis based on existing in-stream concentrations, expected growth in pollutant concentrations from all sources, and a margin of safety.

If you are a construction operator who wants to use this waiver, you must develop your equivalent analysis and provide the following information to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2 Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3 Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the water bodies that would be receiving storm water discharges from your construction project;
5. Your equivalent analysis;
6. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection 11, that certifies that the construction activity will take place and that the storm water discharges will occur, within the drainage area addressed by the equivalent analysis.

D. Waiver Deadlines and Submissions

1. Waiver certifications must be submitted prior to commencement of construction activities.

2. If you submit a TMDL or equivalent analysis waiver request, you are not waived until EPA approves your request. As such, you may not commence construction activities until receipt of approval from EPA.
3. Late Notifications: Operators are not prohibited from submitting waiver certifications after initiating clearing, grading, excavation activities, or other construction activities. The Agency reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and waiver authorization is granted.

Submittal of a waiver certification is an optional alternative to obtaining permit coverage for discharges of storm water associated with small construction activity, provided you qualify for the waiver. Any discharge of storm water associated with small construction activity not covered by either a permit or a waiver may be considered an unpermitted discharge under the Clean Water Act. As mentioned above, EPA reserves the right to take enforcement for any unpermitted discharges that occur between the time constructioncommenced and either discharge authorization is granted or a complete and accurate waiver certification is submitted. EPA may notify any operator covered by a waiver that they must apply for a permit. EPA may notify any operator who has been in non-compliance with a waiver that they may no longer use the waiver for future projects. Any member of the public may petition EPA to take action under this provision by submitting written notice along with supporting justification.

Complete and accurate Rainfall Erosivity waiver certifications must be sent to the following address:

Regular U.S. Mail Delivery

EPA Storm Water Notice Processing Center
Mail Code 4203M
U.S. EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Overnight/Express Mail Delivery

EPA Storm Water Notice Processing Center
Room 7420
U.S. EPA
1201Constitution Avenue, NW
Washington, DC 20004

Complete and accurate TMDL or equivalent analysis waiver requests must be sent to the applicable EPA Region office specified in Appendix B.

Appendix E - Notice of Intent Form and Instructions

From the effective date of this permit, operators are to use the Notice of Intent Form contained in this Appendix to obtain permit coverage.

This Form Replaces Form 3510-9 (8-98)
Refer to the Following Pages for Instructions

Form Approved OMB Nos. 2040-0188 and 2040-0211

NPDES Form

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

Submission of this Notice of Intent (NOI) constitutes notice that the party identified in Section II of this form requests authorization to discharge pursuant to the NPDES Construction General Permit (CGP) permit number identified in Section I of this form. Submission of this NOI also constitutes notice that the party identified in Section II of this form meets the eligibility requirements of the CGP for the project identified in Section III of this form. Permit coverage is required prior to commencement of construction activity until you are eligible to terminate coverage as detailed in the CGP. To obtain authorization, you must submit a complete and accurate NOI form. Refer to the instructions at the end of this form.

I. Permit Number

II. Operator Information

Name:

IRS Employer Identification Number (EIN): ___ - _____

Mailing Address:

Street:

City: State: Zip Code: -

Phone: - - Fax (optional): - -

E-mail (optional):

III. Project/Site Information

Project/Site Name:

Project Street/Location:

City: State: Zip Code: -

County or similar government subdivision:

Latitude/Longitude (Use one of three possible formats, and specify method)

Latitude 1. __° __′ __″ N (degrees, minutes, seconds)
2. __° __ . __′ N (degrees, minutes, decimal)
3. __ . ____° N (decimal)

Longitude 1. ___° __′ __″ W (degrees, minutes, seconds)
2. ___° __ . __′ W (degrees, minutes, decimal)
3. ___ . ____° W (decimal)

Method: ☐ U.S.G.S. topographic map ☐ EPA web site ☐ GPS ☐ Other:
• If you used a U.S.G.S. topographic map, what was the scale: _____

Project Located in Indian country? ☐ Yes ☐ No
If so, name of Reservation or if not part of a Reservation, put "Not Applicable": _____

Estimated Project Start Date: __ / __ / ____ (Month / Date / Year)

Estimated Project Completion Date: __ / __ / ____ (Month / Date / Year)

Estimated Area to be Disturbed (to the nearest quarter acre): ____ . __

IV. SWPPP Information

Has the SWPPP been prepared in advance of filing this NOI? ☐ Yes ☐ No

Location of SWPPP for viewing: ☐ Address in Section II ☐ Address in Section III ☐ Other

If Other:

SWPPP Street:

City:

State: Zip Code: -

SWPPP Contact Information (if different than that in Section II):

Name:

Phone: - - Fax (optional): - -

E-mail (optional):

V. Discharge Information

Identify the name(s) of waterbodies to which you discharge.

Is this discharge consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s)?

☐ Yes ☐ No

VI. Endangered Species Information

Under which criterion of the permit have you satisfied your ESA eligibility obligations?

☐ A ☐ B ☐ C ☐ D ☐ E ☐ F

- If you select criterion F, provide permit tracking number of operator under which you are certifying eligibility:

VII. Certification Information

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name:

Print Title:

Signature:

Date:

Instructions for Completing EPA Form 3510-9

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

NPDES Form | This Form Replaces Form 3510-9 (8/98) | Form Approved OMB Nos. 2040-0188 and 2040-0211

Who Must File an NOI Form

Under the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et.seq.; the Act), federal law prohibits storm water discharges from certain construction activities to waters of the U.S. unless that discharge is covered under a National Pollutant Discharge Elimination System (NPDES) Permit. Operator(s) of construction sites where one or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least one acre, or any other site specifically designated by the Director, must submit an NOI to obtain coverage under an NPDES general permit. Each person, firm, public organization, or any other entity that meets either of the following criteria must file this form: (1) they have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) they have day-to-day operational control of those activities at the project necessary to ensure compliance with SWPPP requirements or other permit conditions. If you have questions about whether you need an NPDES storm water permit, or if you need information to determine whether EPA or your state agency is the permitting authority, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755.

Where to File NOI Form

See the applicable CGP for information on where to send your completed NOI form.

Completing the Form

Obtain and read a copy of the appropriate EPA Storm Water Construction General Permit for your area. To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755. Please submit original document with signature in ink - do not send a photocopied signature.

Section I. Permit Number

Provide the number of the permit under which you are applying for coverage (see Appendix B of the general permit for the list of eligible permit numbers).

Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this application. An operator of a project is a legal entity that controls at least a portion of site operations and is not necessarily the site manager. Provide the employer identification number (EIN from the Internal Revenue Service; IRS), also commonly referred to as your taxpayer ID. If the applicant does not have an EIN enter "NA" in the space provided. Also provide the operator's mailing address, telephone number, fax number (optional) and e-mail address (if you would like to be notified via e-mail of NOI approval when available). Correspondence for the NOI will be sent to this address.

Section III. Project/Site Information

Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

The applicant must also provide the latitude and longitude of the facility either in degrees, minutes, seconds; degrees, minutes, decimal; or decimal format. The latitude and longitude of your facility can be determined in several different ways, including through the use of global positioning system (GPS) receivers, U.S. Geological Survey (U.S.G.S.) topographic or quadrangle maps, and EPA's web-based siting tools, among others. Refer to *www.epa.gov/npdes/stormwater/cgp* for further guidance on the use of these methodologies. For consistency, EPA requests that measurements be taken from the approximate center of the construction site. Applicants must specify which method they used to determine latitude and longitude. If a U.S.G.S. topographic map is used, applicants are required to specify the scale of the map used.

Indicate whether the project is in Indian country, and if so, provide the name of the Reservation. If the project is in Indian Country Lands that are not part of a Reservation, indicate "not applicable" in the space provided.

Enter the estimated construction start and completion dates using four digits for the year (i.e., 05/27/1998). Enter the estimated area to be disturbed including but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Indicate to the nearest quarter acre. Note: 1 acre = 43,560 sq. ft.

Section IV. SWPPP Information

Indicate whether or not the SWPPP was prepared in advance of filing the NOI form. Check the appropriate box for the location where the SWPPP may be viewed. Provide the name,

Instructions for Completing EPA Form 3510-9

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

NPDES Form | This Form Replaces Form 3510-9 (8/98) | Form Approved OMB Nos. 2040-0188 and 2040-0211

fax number (optional), and e-mail address (optional) of the contact person if different than that listed in Section II of the NOI form.

Section V. Discharge Information

Enter the name(s) of receiving waterbodies to which the project's storm water will discharge. These should be the first bodies of water that the discharge will reach. (Note: If you discharge to more than one waterbody, please indicate all such waters in the space provided and attach a separate sheet if necessary.) For example, if the discharge leaves your site and travels through a roadside swale or a storm sewer and then enters a stream that flows to a river, the stream would be the receiving waterbody. Waters of the U.S. include lakes, streams, creeks, rivers, wetlands, impoundments, estuaries, bays, oceans, and other surface bodies of water within the confines of the U.S. and U.S. coastal waters. Waters of the U.S. do not include man-made structures created solely for the purpose of wastewater treatment. U.S. Geological Survey topographical maps may be used to make this determination. If the map does not provide a name, use a format such as "unnamed tributary to Cross Creek". If you discharge into a municipal separate storm sewer system (MS4), you must identify the waterbody into which that portion of the storm sewer discharges. That information should be readily available from the operator of the MS4.

Indicate whether your storm water discharges from construction activities will be consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s). To answer this question, refer to *www.epa.gov/npdes/stormwater/cgp* for state- and regional-specific TMDL information related to the construction general permit. You may also have to contact your EPA regional office or state agency. If there are no applicable TMDLs or no related requirements, please check the "yes" box in the NOI form.

Section VI. Endangered Species Information

Indicate for which criterion (i.e., A, B, C, D, E, or F) of the permit the applicant is eligible with regard to protection of federally listed endangered and threatened species, and designated critical habitat. See Part 1.3.C.6 and Appendix C of the permit. If you select criterion F, provide the permit tracking number of the operator under which you are certifying eligibility. The permit tracking number is the number assigned to the operator by the Storm Water Notice Processing Center after EPA acceptance of a complete NOI.

Section VII. Certification Information

All applications, including NOIs, must be signed as follows:
For a corporation: By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOI form will not be considered eligible for permit coverage.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 3.7 hours. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch 2136, U.S. Environmental Protection, Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB control number on any correspondence. Do not send the completed form to this address.

Appendix F - Notice of Termination Form and Instructions

From the effective date of this permit, operators are to use the Notice of Termination Form contained in this Appendix to terminate permit coverage.

This Form Replaces Form 3517-7 (8-98)
Refer to the Following Page for Instructions

Form Approved OMB Nos. 2040-0086 and 2040-0211

NPDES Form

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under an NPDES General Permit for Storm Water Discharges Associated with Construction Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with construction activity under the NPDES program from the site identified in Section III of this form. All necessary information must be included on this form. Refer to the instructions at the end of this form.

I. Permit Information

NPDES Storm Water General Permit Tracking Number: | | | | | | | | | |

Reason for Termination (Check only one):

- ☐ Final stabilization has been achieved on all portions of the site for which you are responsible.
- ☐ Another operator has assumed control, according to Appendix G, Section 11.C of the CGP, over all areas of the site that have not been finally stabilized.
- ☐ Coverage under an alternative NPDES permit has been obtained.
- ☐ For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

II. Operator Information

Name:

IRS Employer Identification Number (EIN): | | - | | | | | |

Mailing Address:

Street:

City: State: Zip Code: -

Phone: - - Fax (optional): - -

E-mail (optional):

III. Project/Site Information

Project/Site Name:

Project Street/Location:

City: State: Zip Code: -

County or similar government subdivision:

IV. Certification Information

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: _____

Print Title: _____

Signature: _____

Date: _____

Instructions for Completing EPA Form 3510-13

Notice of Termination (NOT) of Coverage Under an NPDES General Permit for Storm Water Discharges Associated with Construction Activity

NPDES Form | This Form Replaces Form 3517-7 (8-98) | Form Approved OMB Nos. 2040-0086 and 2040-0211

Who May File an NOT Form

Permittees who are presently covered under the EPA-issued National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity may submit an NOT form when final stabilization has been achieved on all portions of the site for which you are responsible; another operator has assumed control in accordance with Appendix G, Section 11.C of the General Permit over all areas of the site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

"Final stabilization" means that all soil disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of at least 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. See "final stabilization" definition in Appendix A of the Construction General Permit for further guidance where background native vegetation covers less than 100 percent of the ground, in arid or semi-arid areas, for individual lots in residential construction, and for construction projects on land used for agricultural purposes.

Completing the Form

Type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755. Please submit original document with signature in ink - do not send a photocopied signature.

Section I. Permit Number

Enter the existing NPDES Storm Water General Permit Tracking Number assigned to the project by EPA's Storm Water Notice Processing Center. If you do not know the permit tracking number, refer to *www.epa.gov/npdes/stormwater/cgp* or contact the Storm Water Notice Processing Center at (866) 352-7755.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box. Check only one:

Final stabilization has been achieved on all portions of the site for which you are responsible.

Another operator has assumed control according to Appendix G, Section 11.C over all areas of the site that have not been finally stabilized.

Coverage under an alternative NPDES permit has been obtained.

For residential construction only, if temporary stabilization has been completed and the residence has been transferred to the homeowner.

Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this application and is covered by the permit tracking number identified in Section I. The operator of the project is the legal entity that controls the site operation, rather than the site manager. Provide the employer identification number (EIN from the Internal Revenue Service; IRS). If the applicant does not have an EIN enter "NA" in the space provided. Enter the complete mailing address and telephone number of the operator. *Optional:* enter the fax number and e-mail address of the operator.

Section III. Project/Site Information

Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for termination of permit coverage to be valid.

Section IV. Certification Information

All applications, including NOIs, must be signed as follows:

For a corporation: By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOT form will not be considered valid termination of permit coverage.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per notice, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Include the OMB number on any correspondence. Do not sent the completed form to this address.

Appendix G - Standard Permit Conditions

STANDARD PERMIT CONDITIONS

1. Duty To Comply

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

A. You must comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

B. The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $27,500 per day for each violation).

   The Clean Water Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

C. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $27,500). Pursuant to 40 CFR Part 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $137,500).

2. Duty to Reapply

If you wish to continue an activity regulated by this permit after the expiration date of this permit, you must apply for and obtain a new permit.

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to Mitigate

You must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Proper Operation and Maintenance

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by you to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by you only when the operation is necessary to achieve compliance with the conditions of this permit.

6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

7. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privileges.

8. Duty to Provide Information

You must furnish to EPA, within a reasonable time, any information which EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to EPA upon request, copies of records required to be kept by this permit.

9. Inspection and Entry

You must allow EPA, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

A. Enter upon your premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

D. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

10. Monitoring and Records

A. Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

B. You must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of EPA at any time.

C. Records of monitoring information must include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed

4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

D. Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in the permit.

E. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

11. Signatory Requirements

A. All applications, including NOIs, must be signed as follows:

1. For a corporation: By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or
3. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

B. All reports required by this permit, including SWPPPs, must be signed by a person described in Appendix G, Subsection 11.A above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described in Appendix G, Subsection 11.A;
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
3. The signed and dated written authorization is included in the SWPPP. A copy must be submitted to EPA, if requested.

C. Changes to Authorization. If an authorization under Subpart 2.1 is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new NOI satisfying the requirements of Subpart 2.1 must be submitted to EPA prior to or together with any reports, information, or applications to be signed by an authorized representative. The change in authorization must be submitted within the time frame specified in Subpart 2.2, and sent to the address specified in Subpart 2.3.

D. Any person signing documents required under the terms of this permit must include the following certification:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is,

to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

E. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

12. Reporting Requirements

A. Planned changes. You must give notice to EPA as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR §122.42(a)(1).

B. Anticipated noncompliance. You must give advance notice to EPA of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

C. Transfers. This permit is not transferable to any person except after notice to EPA. EPA may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See 40 CFR §122.61; in some cases, modification or revocation and reissuance is mandatory.)

D. Monitoring reports. Monitoring results must be reported at the intervals specified elsewhere in this permit.

1. Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by EPA for reporting results of monitoring of sludge use or disposal practices.

2. If you monitor any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in the permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by EPA.

3. Calculations for all limitations which require averaging of measurements must use an arithmetic mean.

E. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.

F. Twenty-four hour reporting.

1. You must report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time you become aware of the circumstances. A written submission must also be provided within five days of the time you become aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. The following shall be included as information which must be reported within 24 hours under this paragraph.

a. Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR §122.41(g).)

b. Any upset which exceeds any effluent limitation in the permit

c. Violation of a maximum daily discharge limitation for any of the pollutants listed by EPA in the permit to be reported within 24 hours. (See 40 CFR §122.44(g).)

3. EPA may waive the written report on a case-by-case basis for reports under Appendix G, Subsection 12.F.2 if the oral report has been received within 24 hours.

G. Other noncompliance. You must report all instances of noncompliance not reported under Appendix G, Subsections 12.D, 12.E, and 12.F, at the time monitoring reports are submitted. The reports must contain the information listed in Appendix G, Subsection 12.F.

H. Other information. Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Permitting Authority, you must promptly submit such facts or information.

13. Bypass

A. Definitions.

1. Bypass means the intentional diversion of waste streams from any portion of a treatment facility

2. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. Bypass not exceeding limitations. You may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Appendix G, Subsections 13.C and 13.D.

C. Notice–

1. Anticipated bypass. If you know in advance of the need for a bypass, you must submit prior notice, if possible at least ten days before the date of the bypass.

2. Unanticipated bypass. You must submit notice of an unanticipated bypass as required in Appendix G, Subsection 12.F (24-hour notice).

D. Prohibition of bypass.

1. Bypass is prohibited, and EPA may take enforcement action against you for bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. You submitted notices as required under Appendix G, Subsection 13.C.

2. EPA may approve an anticipated bypass, after considering its adverse effects, if EPA determines that it will meet the three conditions listed above in Appendix G, Subsection 13.D.1.

14. Upset

A. Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Appendix G, Subsection 14.C are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

C. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and that you can identify the cause(s) of the upset;

2. The permitted facility was at the time being properly operated; and

3. You submitted notice of the upset as required in Appendix G, Subsection 12.F.2.b(24 hour notice).
4. You complied with any remedial measures required under Appendix G, Section 4.

D. Burden of proof. In any enforcement proceeding, you, as the one seeking to establish the occurrence of an upset, has the burden of proof.

This Form Replaces Form 3510-9 (8-98)
Refer to the Following Pages for Instructions

Form Approved OMB Nos. 2040-0188 and 2040-0211

NPDES Form

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

Submission of this Notice of Intent (NOI) constitutes notice that the party identified in Section II of this form requests authorization to discharge pursuant to the NPDES Construction General Permit (CGP) permit number identified in Section I of this form. Submission of this NOI also constitutes notice that the party identified in Section II of this form meets the eligibility requirements of the CGP for the project identified in Section III of this form. Permit coverage is required prior to commencement of construction activity until you are eligible to terminate coverage as detailed in the CGP. To obtain authorization, you must submit a complete and accurate NOI form. Refer to the instructions at the end of this form.

I. Permit Number

DCR10A465

II. Operator Information

Name: FEDERAL HIGHWAY ADMINISTRATION

IRS Employer Identification Number (EIN): ___ - _____

Mailing Address:

Street: 21400 RIDGETOP CIRCLE

City: STERLING State: VA Zip Code: 20166 - ____

Phone: 703 - 404 - 6283 Fax (optional): ___ - ___ - ____

E-mail (optional): REID.DAVIS@FHWA.DOT.GOV

III. Project/Site Information

Project/Site Name: PRA-ROCR 3A5, 204(1)

Project Street/Location: ROCK CREEK & POTOMAC PARKWAY/TH

City: WASHINGTON DC State: DC Zip Code: 20037 - ____

County or similar government subdivision: District of Columbi

Latitude/Longitude (Use one of three possible formats, and specify method)

Latitude
1. __° __´ __´´ N (degrees, minutes, seconds)
2. 38° 54 . 38´ N (degrees, minutes, decimal)
3. __ . ____° N (decimal)

Longitude
1. ___° __´ __´´ W (degrees, minutes, seconds)
2. 077° 03. 28´ W (degrees, minutes, decimal)
3. ___. ____° W (decimal)

Method: ☐ U.S.G.S. topographic map ☐ EPA web site ☐ GPS ☑ Other:
• If you used a U.S.G.S. topographic map, what was the scale: _____

Project Located in Indian country? ☐ Yes ☑ No
If so, name of Reservation or if not part of a Reservation, put "Not Applicable": _____

Estimated Project Start Date: 04 / 01 / 2006 (Month / Date / Year) Estimated Project Completion Date: 04 / 01 / 2007 (Month / Date / Year)

Estimated Area to be Disturbed (to the nearest quarter acre): 1.50

IV. SWPPP Information

Has the SWPPP been prepared in advance of filing this NOI? ☑ Yes ☐ No

Location of SWPPP for viewing: ☑ Address in Section II ☐ Address in Section III ☐ Other

If Other:

SWPPP Street:

City:

State: Zip Code: -

SWPPP Contact Information (if different than that in Section II):

Name: CHRISTY DARDEN

Phone: - - Fax (optional): - -

E-mail (optional):

V. Discharge Information

Identify the name(s) of waterbodies to which you discharge. ROCK CREEK, POTOMAC RIVER

Is this discharge consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s)?

☑ Yes ☐ No

VI. Endangered Species Information

Under which criterion of the permit have you satisfied your ESA eligibility obligations?

☐ A ☑ B ☐ C ☐ D ☐ E ☐ F

• If you select criterion F, provide permit tracking number of operator under which you are certifying eligibility:

VII. Certification Information

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: BRIGITTE MANDEL

Print Title: ENVIRONMENT TEAM LEADER

Signature: BRIGITTE MANDEL

Date: 01/12/2006

This Form Replaces Form 3517-7 (8-98)
Refer to the Following Page for Instructions

Form Approved OMB Nos. 2040-0086 and 2040-0211

NPDES Form

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under an NPDES General Permit for Storm Water Discharges Associated with Construction Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with construction activity under the NPDES program from the site identified in Section III of this form. All necessary information must be included on this form. Refer to the instructions at the end of this form.

I. Permit Information

NPDES Storm Water General Permit Tracking Number:

Reason for Termination (Check only one):

- ☐ Final stabilization has been achieved on all portions of the site for which you are responsible.
- ☐ Another operator has assumed control, according to Appendix G, Section 11.C of the CGP, over all areas of the site that have not been finally stabilized.
- ☐ Coverage under an alternative NPDES permit has been obtained.
- ☐ For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

II. Operator Information

Name:

IRS Employer Identification Number (EIN): -

Mailing Address:

Street:

City: State: Zip Code: -

Phone: - - Fax (optional): - -

E-mail (optional):

III. Project/Site Information

Project/Site Name:

Project Street/Location:

City: State: Zip Code: -

County or similar government subdivision:

IV. Certification Information

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: _____

Print Title: _____

Signature: _____

Date: _____

Instructions for Completing EPA Form 3510-13

Notice of Termination (NOT) of Coverage Under an NPDES General Permit for Storm Water Discharges Associated with Construction Activity

NPDES Form | This Form Replaces Form 3517-7 (8-98) | Form Approved OMB Nos. 2040-0086 and 2040-0211

Who May File an NOT Form

Permittees who are presently covered under the EPA-issued National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity may submit an NOT form when final stabilization has been achieved on all portions of the site for which you are responsible; another operator has assumed control in accordance with Appendix G, Section 11.C of the General Permit over all areas of the site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

"Final stabilization" means that all soil disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of at least 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. See "final stabilization" definition in Appendix A of the Construction General Permit for further guidance where background native vegetation covers less than 100 percent of the ground, in arid or semi-arid areas, for individual lots in residential construction, and for construction projects on land used for agricultural purposes.

Completing the Form

Type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755. Please submit original document with signature in ink - do not send a photocopied signature.

Section I. Permit Number

Enter the existing NPDES Storm Water General Permit Tracking Number assigned to the project by EPA's Storm Water Notice Processing Center. If you do not know the permit tracking number, refer to *www.epa.gov/npdes/stormwater/cgp* or contact the Storm Water Notice Processing Center at (866) 352-7755.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box. Check only one:

Final stabilization has been achieved on all portions of the site for which you are responsible.

Another operator has assumed control according to Appendix G, Section 11.C over all areas of the site that have not been finally stabilized.

Coverage under an alternative NPDES permit has been obtained.

For residential construction only, if temporary stabilization has been completed and the residence has been transferred to the homeowner.

Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this application and is covered by the permit tracking number identified in Section I. The operator of the project is the legal entity that controls the site operation, rather than the site manager. Provide the employer identification number (EIN from the Internal Revenue Service; IRS). If the applicant does not have an EIN enter "NA" in the space provided. Enter the complete mailing address and telephone number of the operator. *Optional:* enter the fax number and e-mail address of the operator.

Section III. Project/Site Information

Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for termination of permit coverage to be valid.

Section IV. Certification Information

All applications, including NOIs, must be signed as follows:

For a corporation: By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOT form will not be considered valid termination of permit coverage.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per notice, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Include the OMB number on any correspondence. Do not sent the completed form to this address.